

ment of the following tellers to take up and count the votes:

Messrs. Heaton, Thurmond, Metcalfe and White.

The votes being taken up and counted resulted as follows:

Rives Cornelius received 52 votes.

Mrs. Bergine Pugh received 69 votes.

Mrs. J. M. Olcott received 11 votes.

Mrs. Bergine M. Pugh having received a majority of all votes cast was declared duly elected Enrolling Clerk of the House of Representatives.

ELECTION OF ENGROSSING CLERK.

The Speaker announced that the next business in order is the election of Engrossing Clerk.

Hon. Ernest C. Cox of Navarro county nominated Mrs. Bess Odell Beeman of Travis county.

Hon. Charles S. McCombs of Dallas county seconded the nomination and moved that the entire vote of the House be cast for Mrs. Beeman for Engrossing Clerk.

The motion prevailed and Mrs. Beeman was declared duly elected Engrossing Clerk of the House of Representatives.

PROVIDING FOR COMMITTEE TO NOTIFY SENATE AND GOVERNOR.

Mr. Johnson of Dimmit offered the following resolution:

Resolved, That the Speaker appoint two committees of four members each, one to notify the Governor and the other to notify the Senate that the House is now organized and ready for business.

Signed—Johnson of Dimmit, Shaver, Dunlap, Minor, Wallace, Holder, Woodruff, Montgomery.

The resolution was read second time and was adopted.

In accordance with the above action the Speaker announced the appointment of the following committees:

To notify Senate—Messrs. Johnson of Dimmit, Dunlap, Minor and Shaver.

To notify the Governor—Messrs. Wallace, Montgomery, Holder and Woodruff.

OATH OF OFFICE ADMINISTERED.

The constitutional oath of office was administered by the Speaker to the following elected officers of the House:

Louise Snow Phinney, Chief Clerk.

Joe W. White, Sergeant-at-Arms.

A. C. Dunn, Reading Clerk.

Ed A. Harrell, Assistant Reading Clerk.

Gladys Nichols, Calendar Clerk.

Bergine Pugh, Enrolling Clerk.

J. C. Mitchell, Chaplain.

Bess Odell Beeman, Engrossing Clerk.

J. L. Robinson, Journal Clerk.

Phil H. Clements, Doorkeeper.

G. A. Atkinson, Assistant Doorkeeper.

ADJOURNMENT.

On motion of Mr. Wallace, the House, at 6:05 o'clock p. m., adjourned until 2 o'clock p. m. tomorrow.

SECOND DAY.

(Wednesday, January 9, 1929.)

The House met at 2 o'clock p. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and the following members were present:

Acker.	Graves
Ackerman.	of Williamson.
Adkins.	Graves of Erath.
Albritton.	Hardy.
Anderson.	Harding.
Avis.	Harman.
Baker.	Harper.
Barnett.	Harrison.
Bateman.	Heaton.
Beck.	Hines.
Bond.	Hogg.
Bounds.	Holder.
Bradley.	Hopkins.
Brice.	Hubbard.
Brooks.	Jenkins.
Carpenter.	Johnson
Chastain.	of Dimmit.
Coltrin.	Johnson of Smith.
Conway.	Johnson of Scurry.
Cox of Navarro.	Jones.
Cox of Lamar.	Justiss.
Cox of Limestone.	Kayton.
Davis.	Keeton.
DeWolfe.	Keller.
Dunlap.	Kemble.
Duvall.	Kennedy.
Enderby.	Kenyon.
Ewing.	Kincaid.
Eickenroht.	King.
Finn.	Kinnear.
Finlay.	Land.
Forbes.	Lee.
Fuchs.	Lemens.
Gates.	Long of Houston.
Gerron.	Long of Wichita.
Gilbert.	Loy.

Mankin.	Savage.
Martin.	Shaver.
Mauritz.	Shelton.
Maynard.	Sherrill.
McCombs.	Shipman.
McDonald.	Simmons.
McGill.	Sinks.
Mehl.	Smith.
Metcalfe.	Snelgrove.
Minor.	Speck.
Montgomery.	Stephens.
Moore.	Stevenson.
Morse.	Storey.
Mosely.	Strong.
Mullally.	Tarwater.
Murphy.	Thompson.
Negley.	Thurmond.
Nicholson.	Tillotson.
Olsen.	Turner.
O'Neill.	Van Zandt.
Palmer.	Veatch.
Patterson.	Waddell.
Pavlica.	Wallace.
Petsch.	Walters.
Pool.	Warwick.
Pope of Jones.	Webb.
Pope of Nueces.	Westbrook.
Prendergast.	White.
Purl.	Wiggs.
Quinn.	Williams
Ray.	of Sabine.
Reader.	Williams
Reid.	of Hardin.
Renfro.	Williams
Richardson.	of Travis.
Rogers.	Woodall.
Rountree.	Woodruff.
Sanders.	Young.

Absent.

Hefley.	McKean.
Hornaday.	

Absent—Excused.

Baldwin.	Giles.
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A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain.

LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of illness:

Mr. Baldwin for today, on motion of Mr. Harman.

Mr. Giles for today, on motion of Mr. Petsch.

Mr. Mosely for today and the remainder of the week, on motion of Mr. Pope of Jones.

MESSAGE FROM THE SENATE.

Senate Chamber.

Austin, Texas, January 9, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed the following resolutions and bill:

S. C. R. No. 1. Adopting joint rules of House and Senate of Fortieth Legislature.

S. C. R. No. 2. Providing for appointment of a joint committee to count votes cast for Governor and Lieutenant Governor.

The following are appointed on the part of the Senate: Senators Martin, Hyer, Small, Gainer and Hardin.

S. C. R. No. 3. Providing for a joint meeting of House and Senate at 3:30 o'clock this afternoon to receive a message from the Governor.

S. B. No. 1. A bill to be entitled "An Act appropriating \$185,000 out of general revenue to pay mileage and per diem of members and employees of Forty-first Legislature."

Respectfully,

MORRIS C. HANKINS,

Assistant Secretary of the Senate.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Bradley and Mr. Morse:

H. B. No. 1. A bill to be entitled "An Act making certain appropriations out of the general revenue of the State for the payment for the construction of certain new buildings for certain eleemosynary institutions of the State, as named herein, for the two fiscal years beginning September 1, 1929, and ending August 31, 1931, and declaring an emergency."

Referred to Committee on Appropriations.

By Mr. Williams of Travis:

H. B. No. 2. A bill to be entitled "An Act to repeal all laws authorizing the sale of minerals in University lands or the making of mineral leases on and of said lands."

Referred to Committee on State Affairs.

By Mr. Tillotson:

H. B. No. 3, A bill to be entitled "An Act to declare a State policy in the construction and maintenance of a State system of highways; declaring that such system of highways shall be developed from an independent revenue exclusive to the State adequate to traffic needs."

Referred to Committee on Highways and Motor Traffic.

By Mr. Tillotson:

H. B. No. 4, A bill to be entitled "An Act to amend Chapter 93 of the Acts of the Regular Session of the Fortieth Legislature, which Chapter 93 was amendatory of Chapter 5 of the Acts of the Thirty-eighth Legislature, Article 7065 of the Revised Civil Statutes of Texas of 1925, providing for an occupation tax upon wholesale dealers in gasoline equal to four cents per gallon on all such gasoline so sold by any such dealer."

Referred to Committee on Revenue and Taxation.

By Mr. Tillotson:

H. B. No. 5, A bill to be entitled "An Act to amend Article 6691, Revised Civil Statutes of Texas, of 1925, providing certain duties for county tax collectors in handling registration fees of motor vehicles; providing for the apportionment of motor vehicle registration fees between the State Highway Department and the counties of the State; providing the manner of the allotment of such fees to the different counties and the purposes to which it shall be available; providing the date upon which the act shall be effective."

Referred to Committee on Highways and Motor Traffic.

By Mr. Tillotson:

H. B. No. 6, A bill to be entitled "An Act to authorize the collection of a tax upon the business of motor vehicles operating as common carriers in the transportation of persons and property for hire equal to two per cent of the gross receipts of such common carrier motor vehicles from the charges made by such common carriers for the transporting of persons or property; providing the manner of reporting and accounting for such receipts, and for certain duties of the State Comptroller; providing the date the act shall become effective; providing that if any provision of the act shall be declared in-

valid it shall not affect any other provision."

Referred to Committee on Revenue and Taxation.

By Mr. Tillotson:

H. B. No. 7, A bill to be entitled "An Act to provide authority to the State Highway Commission to select and maintain temporary detour roads through counties where construction of designated parts of the State highway system is being carried on, and setting forth the duties of the Commission and of the counties therewith; and providing authority to county commissioners courts to select and maintain temporary detour roads in the county where construction of any public road is being carried on, not part of the State system of designated highways, and setting forth the duties of the commissioners court therewith."

Referred to Committee on Highways and Motor Traffic.

By Mr. Kemble, Mr. Morse and Mr. Quinn:

H. B. No. 8, A bill to be entitled "An Act to define, regulate and license real estate brokers, real estate agents and real estate salesmen within the State of Texas, to create a State Board of Examiners to operate in conjunction with the office of the Commissioner of the General Land Office, and providing for the appointment of such examiners, and fixing their qualifications, compensation and tenure of office."

Referred to Committee on State Affairs.

By Mr. Webb:

H. B. No. 9, A bill to be entitled "An Act declaring the use, manufacture, sale, distribution and delivery of ice a public business, impressed with a public trust, and subject to public regulation; conferring jurisdiction and authority upon the Railroad Commission of Texas thereover, making it the duty of said Commission to adopt rates, charges, rules and regulations governing the manufacture, sale, delivery and distribution of ice, and to correct abuses and prevent unjust discrimination in rates, charges and practices relative thereto."

Referred to Committee on Common Carriers.

By Mr. Kinnear and Mr. Shaver:

H. B. No. 10, A bill to be entitled "An Act authorizing the creation of

junior college districts; embracing the territory; fixing the assessed valuation; providing for the calling of an election; the management and control of the junior college; number of trustees; how they should be elected; term of office; providing for the trustees to make affidavits before entering upon their duties."

Referred to Committee on Education.

By Mr. Reader, Mr. Rogers, Mr. Dunlap, Mr. Long of Wichita and Mr. Finn:

H. B. No. 11, A bill to be entitled "An Act to create the State Board of Pharmacy; providing for its appointment, terms and tenure of office and its members; defining its duties and powers; and to regulate the practice of pharmacy; and providing for the licensing of pharmacists and regulating the distribution, compounding and sale of medicines, drugs, chemicals and poisons in the State of Texas; defining the terms pharmacist, pharmacy, drug store and board; providing penalties, and repealing all existing laws in conflict herewith, and declaring an emergency."

Referred to Committee on Public Health.

By Mr. Hopkins:

H. B. No. 12, A bill to be entitled "An Act to amend Article 7125 of the Revised Civil Statutes of 1925 so as to exempt estates upon which inheritance taxes have been levied within five years from date of second passage of said estates, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. Williams of Travis:

H. B. No. 13, A bill to be entitled "An Act to provide that appointment to the State service shall be on the basis of merit determined by examination, with certain exceptions, providing that the State Board of Control shall administer this act and provide for examinations and rules therefor; defining competitive and non-competitive classes, and providing for fees for examination."

Referred to Committee on State Affairs.

By Mr. Justiss:

H. B. No. 14, A bill to be entitled "An Act to amend Article 1066 of the Code of Criminal Procedure of the State of Texas, 1925, regulating and fixing fees of justices of the peace in criminal actions tried before them and adding Article 1066a, providing for a trial fee

to be paid to the justice of the peace out of the county general fund in each case tried before him, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Quinn:

H. B. No. 15, A bill to be entitled "An Act to amend Article 1379, of the Penal Code of the State of Texas so as to increase the penalty from a fine of not less than ten nor more than five hundred dollars, to confinement in the penitentiary for not less than one nor more than five years, and to define 'owner' as therein used, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Westbrook, Mr. Baldwin and Mr. Harman:

H. B. No. 16, A bill to be entitled "An Act to establish and maintain an agricultural experiment station in the blacklands region of Texas, authorizing the board of directors of the Agricultural and Mechanical College of Texas to select a suitable location for said station, and empowering said board of directors to establish and maintain the same, to accept donations of land, water and money for the establishment of said station, making an appropriation to pay the cost of establishing said station, and for the operation of same, and declaring an emergency."

Referred to Committee on Agriculture.

By Mr. Harman:

H. B. No. 17, A bill to be entitled "An Act to amend Article 2094, Article 2095, and Article 2096 of the Revised Statutes of 1925, relating to the selection of jurors; amending Article 2094 of the Revised Statutes, 1925, providing for the appointment of jury commissioners to select jurors in certain counties."

Referred to Judiciary Committee.

By Mr. Harman:

H. B. No. 18, A bill to be entitled "An Act creating the office of criminal district attorney in those counties which constitute three or more separate judicial districts within themselves in which there is not now a district attorney; providing that the present county attorney in those counties, who performs the duties of county and district attorney, shall qualify as criminal district

attorney, remain in office and take the oath and give the bond required of district attorneys by the Constitution and laws of Texas, organize their forces and continue the work as criminal district attorney until their successors are elected and qualified."

Referred to Committee on Criminal Jurisprudence.

By Mr. Harman:

H. B. No. 19, A bill to be entitled "An Act requiring every person, firm, co-partnership, association, or corporation doing business in this State, which are subject to occupation, gross receipts, or other taxes upon sales or gross receipts, to keep complete, permanent, and detailed records of all business transacted in Texas, said records to be kept at all the principal places of business or division headquarters in Texas; providing that the Attorney General of Texas, or the State Comptroller, or the duly authorized representative of either, may make examination of all such records, and also failing or refusing to produce the same for examination, and fixing the penalty; providing for the producing of such records in court, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. Harman:

H. B. No. 20, A bill to be entitled "An Act relating to delinquent taxes by amending Article 7321, Revised Civil Statutes for 1925, repealing Article 7322 of the Revised Civil Statutes for 1925, adding a new Article 7322a, amending Articles 7324, 7325, 7326, 7327, 7331, 7332, 7334, 7335, 7342, 7344, and 7345, and adding a new Article 7345a, amending Article 7321 so as to apportion delinquent taxes where there are several items of taxes, and providing that the delinquent tax record shall be preserved by the tax collector."

Referred to Committee on Revenue and Taxation.

By Mr. Harman, Mr. Baldwin and Mr. Westbrook:

H. B. No. 21, A bill to be entitled "An Act providing for expense account for constables in certain counties to be allowed and paid out of the general fund of the county, and declaring an emergency."

Referred to Judiciary Committee.

By Mr. Harman, Mr. Duvall and Mr. Anderson:

H. B. No. 22, A bill to be entitled "An Act providing for a system of public education in the State of Texas including the establishment, government, operation, maintenance, management and control of a University and all matters incident thereto; the establishment, maintenance, operation, government, management and control of an Agricultural and Mechanical College and all matters incident thereto; establishment, government, maintenance, management, operation and control of the John Tarleton Agricultural College, the North Texas Junior Agricultural College, the College of Industrial Arts, the Texas Technological College, the School of Mines and Metallurgy, Prairie View Normal and Industrial College, and all matters incident thereto; the establishment, maintenance, management, government, operation and control of Sam Houston State Teachers College, North Texas State Teachers College, Southwest Texas State Teachers College, Stephen F. Austin Teachers College, West Texas State Teachers College, East Texas State Teachers College, Sul Ross State Teachers College, South Texas State Teachers College, and all matters incident thereto."

Referred to Committee on Education.

By Mr. Montgomery:

H. B. No. 23, A bill to be entitled "An Act to create Hidalgo County Water Improvement District No. 5, in Hidalgo county, Texas, into a water control and improvement district, without changing the name of said district; validating and approving all orders made by the commissioners court of said county in respect to the original organization of said district as a water improvement district under Article 3, Section 52, of the Constitution."

Referred to Committee on Conservation and Reclamation.

By Mr. Veatch, Mr. Graves of Erath and Mr. Van Zandt:

H. B. No. 24, A bill to be entitled "An Act making it unlawful for the fraudulent taking of any chicken or turkey, making such offense a felony, prescribing punishment therefor and repealing Chapter 15 of the General Laws of the First Called Session of the Thirty-ninth Legislature, known as Senate

bill No. 280, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Barnett:

H. B. No. 25, A bill to be entitled "An Act making unlawful the fraudulent taking of chickens, turkeys, geese, ducks and guineas under the value of fifty (\$50.00) dollars and making the first offense a misdemeanor and the second and subsequent offenses a felony; prescribing punishment therefor, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Barnett:

H. B. No. 26, A bill to be entitled "An Act making it unlawful for the fraudulent taking of cotton and cotton seed under the value of fifty (\$50.00) dollars; making the first offense a misdemeanor and the second and subsequent offenses a felony; and prescribing punishment therefor, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Jenkins:

H. B. No. 27, A bill to be entitled "An Act to provide for a system of pleadings in district and county courts in this State; to define such pleadings; to provide for the assessment of cost against parties who improperly plead or deny material facts; to define appearance day; to provide for judgments by default, and to repeal Article 2152 of the Revised Civil Statutes in reference to appearance day and all other laws in conflict with this act."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 28, A bill to be entitled "An Act to amend Article 7366 with reference to plaintiff's petition and to amend Article 7372 of the Revised Civil Statutes of Texas in reference to the defendant's answer in trespass to try title and to provide that all material allegations in plaintiff's petition which are not denied shall be taken as confessed."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 29, A bill to be entitled "An Act to provide for filing in duplicate certain papers in causes pending in the district and county courts and

to define what shall constitute the record on appeal to the Court of Civil Appeals of Texas, and the action of the court thereon."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 30, A bill to be entitled "An Act to amend Article 2152 in reference to appearance day."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 31, A bill to be entitled "An Act to provide for hearing dilatory pleas, to provide for the waiver of such pleas if not presented as herein provided; to repeal Articles 2164 and 2166 of the Revised Civil Statutes in regard to dilatory pleas, and to repeal all of the laws in conflict with this act."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 32, A bill to be entitled "An Act to define what shall constitute the record on appeal of any civil case tried in any district or county court in this State; the manner and time of preparing and filing such record, requiring a motion for a new trial as a prerequisite to appeal and providing that such motion shall constitute the assignment of errors on such appeal and to repeal Articles 1837, 1838, 1839, 1840, 1841, 1844, 1845, 1846, 1848, 1873, 1874, 1875, 1876, 1877, 1881, 1882, 1883, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2253 of the Revised Civil Statutes of Texas."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 33, A bill to be entitled "An Act to provide for writs of error to the Supreme Court from judgments of the Courts of Civil Appeals; to prescribe what shall be necessary for a petition for such writ and the assignment of error; the action of the Supreme Court thereon and to repeal Articles 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757 of the Revised Civil Statutes of Texas."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 34, A bill to be entitled "An Act to provide for setting cases for trial in the district and county courts of this State and to provide that cases so set shall take precedence of cases not so set for trial."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 35, A bill to be entitled "An Act to provide for bills of exception in civil cases tried in any district or county court in this State and to repeal Articles 1838, 2210, 2237 and 2246 of the Revised Civil Statutes of Texas."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 36, A bill to be entitled "An Act to amend Article 2117 of the Revised Civil Statutes in reference to the manner of summoning jurors."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 37, A bill to be entitled "An Act to amend Article 2135 in reference to jury service; to declare what opinion shall be cause for challenge in any case, and to provide for the examination of jurors as to their qualifications by the judge presiding only."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 38, A bill to be entitled "An Act to amend Article 2203 of the Revised Civil Statutes of Texas and to provide that a verdict may be rendered by the concurrence of nine jurors in district court and four jurors in the county and justice courts."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 39, A bill to be entitled "An Act to provide for writs of error to the Supreme Court, what shall constitute a petition therefor, the record therein, and the action of the court thereon; to provide for an attorney's fee in favor of appellee and to repeal Articles 1881, 1882 and 1883 of the Revised Statutes of Texas."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 40, A bill to be entitled "An Act making the official stenographic report of the evidence taken in the trial of any civil suit, evidence upon any subsequent trial of such suit, or in another suit between the same parties involving the same subject matter."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 41, A bill to be entitled "An Act to repeal Article 1918 of the Revised Civil Statutes of Texas in reference to reading the minutes."

Referred to Judiciary Committee.

By Mr. Van Zandt, Mr. Purl and Mr. Finlay:

H. B. No. 42, A bill to be entitled "An Act making it unlawful for the fraudulent taking of any chicken, turkey, duck, goose, guinea or other domestic fowl, making such offense a felony, prescribing punishment therefor, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Montgomery, Mr. Stevenson and Mr. Hubbard:

H. B. No. 43, A bill to be entitled "An Act to amend Article 2547, Chapter 2, Title 47, Revised Civil Statutes of 1925, and amendments thereto, which article provides for the execution of bonds for securing county deposits; providing for the manner in which such deposits may be secured and the amount of such bonds; repealing all laws and parts of laws in conflict herewith, particularly Chapter 129 of the General Laws of the Regular Session of the Fortieth Legislature, and declaring an emergency."

Referred to Committee on Banks and Banking.

By Mr. Metcalfe, Mr. Reid and Mr. Johnson of Scurry:

H. B. No. 44, A bill to be entitled "An Act to amend subdivision 32 of Article 199 of Title 8 of the Revised Statutes of the State of Texas, 1925, to change and prescribe the time for holding district courts of the Thirty-second Judicial District of the State, composed of Nolan, Scurry, Mitchell, Howard and Borden counties, giving additional time to Howard county, and to conform all writs and process from such courts to such changes and to make all writs and process issued or served before this act takes effect, including recognizances and bonds, returnable to the term of the court in the several counties in said district as therein fixed and to validate the summoning of grand juries and petit juries and providing for the continuation of courts in session in said district when this act takes effect, to the end of its term; provided, that no grand jury shall be drawn for the two weeks' term of court to be held in Nolan county on the 24th Monday after the first Monday in January unless the judge of said court in his discretion shall order same, repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Referred to Committee on Judicial Districts.

By Mr. Land:

H. B. No. 45, A bill to be entitled "An Act to amend Article 4604 of the Revised Civil Statutes of the State of Texas, adopted at the Regular Session of the Thirty-eighth Legislature, 1925, so as to provide that persons who desire to marry shall procure a license from the county clerk, directed to all persons authorized by law to celebrate the rites of matrimony; providing that persons who are to be joined in marriage shall apply for license to marry from the county clerk in which marriage is to be celebrated, which application must show full name, age and residence of man and woman, whether single or previously married, whether spouse is deceased or divorced, and if divorced, when, where and the court granting same and certified copy of same shall be made by the parties to the marriage at least five days, and not more than thirty days, before license shall be issued, and the county clerk shall have parties record in a book kept for that purpose notice of intention to marry, and in case of necessity arising, either applicant for a license to marry may apply to any judge of a court of record within said county, if necessary, may order the county clerk to issue such license within less than five days and providing that the Attorney General may prepare proper forms, which may be required to carry into effect the terms hereof, and transmit copies thereof to the county clerk of each county, and declaring an emergency."

Referred to Judiciary Committee.

By Mr. Savage:

H. B. No. 46, A bill to be entitled "An Act amending Article 3386 of the Revised Statutes of 1925, as amended, 1927, providing for the amount of bonds of executors and administrators, and amending Article 3392 of the Revised Statutes of 1925, requiring new bond."

Referred to Judiciary Committee.

GOVERNOR NOTIFIED.

The committee appointed to notify the Governor that the House is now organized and ready for the transaction of business appeared at the bar of the House, and being duly announced, stated that they had performed the duty assigned them.

ADDRESS BY R. C. BURROWS.

Mr. Morse offered the following resolution:

Whereas, Mr. R. C. Burrows of Houston is on the floor of the House; and,

Whereas, Mr. Burrows has a message which will no doubt be of considerable interest to the members of this body; therefore be it

Resolved, That Mr. Burrows be invited to address the House.

Signed—Morse, Hogg, Acker, Thompson, Bradley, Kemble.

The resolution was read second time and was adopted.

In accordance with the above action, the Speaker announced the appointment of the following committee to escort Mr. Burrows to the Speaker's stand:

Messrs. Morse, Hogg, Acker, Thompson, Bradley and Kemble.

The committee having performed their duty, Speaker Barron presented Mr. Morse, who in turn introduced Mr. Burrows.

Mr. Burrows then addressed the House and invited the members of the House to attend a dinner given in Houston by the Salesmanship Club on next Saturday, January 19, 1929.

On motion of Mr. Savage the House accepted the invitation.

COMMITTEE TO SELECT COMMITTEE CLERKS.

The Speaker announced the appointment of the following committee on committee clerks:

Messrs. Holder, Nicholson, Hines, Gilbert and Loy.

COMMITTEE ON THE SELECTION OF PAGES.

The Speaker announced the appointment of the following committee on the appointment of pages:

Messrs. Woodall, Purl, Cox of Navarro, Long of Houston and Brice.

TEMPORARY COMMITTEE ON APPROPRIATIONS.

The Speaker announced the appointment of the following temporary Appropriations Committee:

Messrs. Wallace, Gilbert, Woodall, Thompson and Holder.

COMMITTEE TO SELECT PORTERS.

The Speaker announced the appointment of the following committee on the appointment of porters:

Messrs. Gates, McCombs and Anderson.

PROVIDING FOR HOUSE JOURNALS.

Mr. Beck offered the following resolution:

Resolved by the House of Representatives, That one thousand five hundred copies of the House Journal be printed of the first day, one thousand the rest of the week, and seven hundred each remaining day of the session, one hundred to be delivered to the Senate, one copy to be placed on each member's desk daily, three copies to be delivered to the head of each State department, seventy-five copies to the State Library, and the remainder to be left with the Sergeant-at-Arms for distribution under the direction of the Speaker.

Signed—Beck, Eickenroht.

The resolution was read second time and was adopted.

PROVIDING FOR ADOPTION OF JOINT RULES.

The Speaker laid before the House for consideration the following resolution:

S. C. R. No. 1, Providing for adoption of Joint Rules.

Be it resolved by the Senate of Texas, the House of Representatives concurring, That the Joint Rules of the Senate and House adopted by the Fortieth Legislature be adopted as the Joint Rules of the Senate and House of the Forty-first Legislature until amended or changed by action of both the Senate and the House.

The resolution was read second time and was adopted.

PROVIDING FOR JOINT SESSION OF HOUSE AND SENATE.

The Speaker laid before the House for consideration the following resolution:

S. C. R. No. 3, Providing for joint session of House and Senate.

Whereas, The Hon. Dan Moody, Governor, desires to submit to a joint session of the State Legislature a message in the House of Representatives at 3:30 o'clock p. m. on this the 9th day of January, A. D. 1929; therefore, be it

Resolved by the Senate, the House of Representatives concurring, That a joint session of the House of Representatives and of the Senate convene in the House of Representatives at 3:30 p. m. on this the 9th day of January, A. D. 1929, for the purpose of hearing and receiving the message of the Governor.

The resolution was read second time and was adopted.

In accordance with the above action the Speaker announced the appointment of the following committee to escort Hon. Dan Moody to the bar of the House:

Messrs. Montgomery, Sanders, Jenkins and Pope of Nueces.

TEMPORARY STENOGRAPHERS APPOINTED.

The Speaker announced the appointment of the following temporary stenographers:

Mrs. B. J. Rupert, Norine Nachtrab, Elizabeth Finks, Myrtis Wilson, Kirtley Thatcher, Jessie Neal, Carolyn Lowenstein, Mrs. Agnes Chapman, Pearl Williams, Mary Lee Davis and Dalphene Moore.

PROVIDING FOR COMMITTEE TO COUNT VOTES FOR GOVERNOR AND LIEUTENANT GOVERNOR.

The Speaker laid before the House for consideration the following resolution:

S. C. R. No. 2, Providing for committee to count votes for Governor and Lieutenant Governor.

Be it resolved by the Senate of Texas, the House of Representatives concurring, That the President of the Senate appoint five Senators and the Speaker of the House of Representatives appoint five members of the House of Representatives to count votes in the recent election for Governor and Lieutenant Governor, and to make all necessary arrangements for their inauguration.

The resolution was read second time and was adopted.

COMMITTEE TO COUNT VOTES FOR GOVERNOR AND LIEUTENANT GOVERNOR.

The Speaker announced the appointment of the following committee to canvass votes for Governor and Lieutenant Governor:

Messrs. Murphy, Waddell, Ackerman, Hopkins and Chastain.

SENATE NOTIFIED.

The committee appointed to notify the Senate that the House is now organized and ready for the transaction of

business appeared at the bar of the House, and being duly announced, stated that they had performed the duty assigned them.

PROVIDING FOR EMPLOYEES OF THE HOUSE.

Mr. Wallace offered the following resolution:

Resolved, That the Speaker of the House shall appoint the following employees for the Regular Session of the Forty-first Legislature to serve for such compensation as is hereafter provided:

One parliamentarian for the House, \$7.50 per day.

One secretary for the Speaker, \$7.50 per day.

One porter for the Speaker, \$3.00 per day.

One page for the Speaker, \$3.00 per day.

One secretary to the Chief Clerk, \$5.00 per day.

One clerk to the Chief Clerk, \$4.00 per day.

One Warrant Clerk, \$5.00 per day.

One assistant to Journal Clerk, \$7.50 per day.

One assistant to Calendar Clerk, \$5.00 per day.

One assistant to the Sergeant-at-Arms, \$5.00 per day.

One clerk for Committee on Appropriations, \$7.50 per day.

One stenographer for Committee on Appropriations, \$5.00 per day.

One superintendent of stenographers, \$7.50 per day.

Thirty-five expert stenographers, \$5.00 per day.

Twelve committee clerks, \$5.00 per day.

One mailing clerk for Journal, \$5.00 per day.

One superintendent of the House, \$5.00 per day.

One page for Doorkeeper, \$3.00 per day.

One page for engrossing and enrolling division, \$2.50 per day.

One page for stenographic force, \$2.50 per day.

Twenty-two pages, \$2.50 per day each.

One page for Mr. Van Zandt of Grayson county, \$4.00 per day.

One clerk to the Sergeant-at-Arms, \$7.50 per day.

One storekeeper to Sergeant-at-Arms, \$4.00 per day.

One page to Sergeant-at-Arms, \$3.00 per day.

One night watchman, \$5.00 per day.

One elevator man, \$4.00 per day.

Two messengers to carry papers to Confederate Home and to Woman's Confederate Home, \$2.00 per day each.

Twelve porters, \$3.00 per day.

One chief operator for voting machine, \$7.50 per day.

One assistant operator for voting machine, \$5.00 per day.

Be it further resolved, That it shall be the duty of the Speaker, and he is hereby empowered to dispense with the services of any employee who in his judgment is not further needed, and for misconduct of any employee, and further he shall have the power to appoint extra help when in his judgment it is needed. The duties of the employees as hereinbefore mentioned shall be such as are required by the Speaker of the House of Representatives.

Any of the employees may be excused by the Speaker for causes deemed by him sufficient; provided further, that any employee who shall absent himself without leave shall not receive any compensation for the time missed during said absence. The salaries of the employees shall begin when they are instructed to begin work by the Speaker.

The resolution was read second time.

Mr. Kemble offered the following amendment to the resolution:

Amend to pay parliamentarian \$10.00 per day.

Signed—Kemble, Morse.

Mr. Quinn moved to table the amendment.

Yeas and nays were demanded and the motion to table was lost by the following vote:

Yeas—52.

Ackerman.	Graves of Erath.
Adkins.	Holder.
Avis.	Hubbard.
Bond.	Jenkins.
Bounds.	Jones.
Brice.	Justiss.
Carpenter.	Kennedy.
Chastain.	King.
Coltrin.	Land.
Conway.	Lee.
Cox of Lamar.	Lemens.
Cox of Limestone.	Loy.
Davis.	Mosely.
DeWolfe.	Mauritz.
Enderby.	Pope of Jones.
Ewing.	Pope of Nueces.
Eickenroht.	Prendergast.
Fmly.	Purl.
Fuchs.	Quinn.

Renfro.
Rogers.
Sanders.
Savage.
Sherrill.
Shipman.
Simmons.
Snelgrove.

Stephens.
Stevenson.
Tillotson.
Veatch.
Williams
of Sabine.
Woodruff.
Young.

Nays—85.

Acker.
Albritton.
Anderson.
Baker.
Barnett.
Bateman.
Beck.
Bradley.
Brooks.
Cox of Navarro.
Duvall.
Finn.
Forbes.
Gates.
Gerron.
Gilbert.
Graves
of Williamson.
Hardy.
Harding.
Harman.
Harper.
Harrison.
Heaton.
Hines.
Hogg.
Hopkins.
Johnson
of Dimmit.
Johnson of Scurry.
Kayton.
Keeton.
Keller.
Kemble.
Kenyon.
Kincaid.
Kinnear.
Long of Houston.
Long of Wichita.
Martin.
Maynard.
McCombs.
McDonald.
McGill.
Mehl.

Metcalf.
Minor.
Montgomery.
Moore.
Morse.
Mullally.
Murphy.
Negley.
Nicholson.
Olsen.
O'Neill.
Palmer.
Patterson.
Pavlica.
Petsch.
Pool.
Ray.
Reader.
Richardson.
Rountree.
Shaver.
Shelton.
Sinks.
Smith.
Speck.
Storey.
Strong.
Tarwater.
Thompson.
Thurmond.
Turner.
Van Zandt.
Waddell.
Walters.
Warwick.
Webb.
Westbrook.
White.
Wiggs.
Williams
of Hardin.
Williams
of Travis.
Woodall.

Present—Not Voting.

Johnson of Smith.

Absent.

Dunlap.
Hefley.
Hornaday.
Mankin.

McKean.
Reid.
Wallace.

Absent—Excused.

Baldwin.

Giles.

Question then recurring on the amendment, it was adopted.

Mr. Tillotson offered the following amendment to the resolution:

Amend by increasing the compensation of the Chief Clerk from \$7.50 a day to \$10.00 a day.

Signed—Tillotson, Chastain, Johnson of Dimmit.

On motion of Mr. Sherrill the amendment was tabled.

Mr. Purl offered the following amendment to the resolution:

Amend resolution by striking out "\$7.50" wherever it appears and inserting "\$10.00" in lieu thereof.

On motion of Mr. Holder the amendment was tabled.

Mr. Kemble moved the previous question on the pending resolution, and the main question was ordered.

Question recurring on the resolution as amended, it was adopted.

COMMITTEE ON STENOGRAPHERS.

The Speaker announced the appointment of the following committee on selection of stenographers:

Messrs. Storey, Long of Houston, Bond, Minor, Dunlap, Wallace and Davis.

RELATING TO PAYING LICENSE FEE.

Mr. Quinn offered the following resolution:

H. C. R. No. 1, Relating to license fee on automobiles.

Whereas, There are thousands of automobile owners who were unable to pay their automobile tax before January 1, 1929; and

Whereas, In some counties the local officials have agreed to an extension of time until January 31st; and

Whereas, In many other counties arrests are being made for failure to pay the automobile license fee; and

Whereas, There is a great injustice being done to many of our good citizens who are not financially able to pay their automobile tax and many others who have not had an opportunity to pay their tax; therefore be it

Resolved by the House of Representatives, the Senate concurring, That we recommend and request the State and county officials of Texas to grant an extension of time until January 31st in

which to pay this tax and that no further arrests be made until the first day of February, 1929, which has been the custom heretofore.

The resolution was read second time.

Mr. Minor raised the point of order, on further consideration of the resolution, that a law cannot be suspended by a concurrent resolution.

The Speaker sustained the point of order.

ADDRESS BY GOVERNOR MOODY.

(In Joint Session.)

In accordance with the concurrent action of the two houses, the House and the Senate met in joint session at 3:30 o'clock p. m. for the purpose of hearing an address by Honorable Dan Moody, Governor.

At the hour of 3:30 o'clock p. m. the Honorable Senate was announced at the bar of the House, and being admitted, were escorted to seats already prepared for them along the aisles.

The Lieutenant Governor, being invited, occupied a seat on the Speaker's stand.

The Lieutenant Governor announced that there was a quorum of the Senate present.

The Speaker of the House announced that a quorum of the House was present.

The committee appointed by the Speaker to escort Governor Moody to the Hall of the House of Representatives appeared at the bar of the House, in company with Governor Moody, and being admitted, occupied seats on the Speaker's stand.

Speaker Barron presented Honorable Barry Miller, Lieutenant Governor, who presented Governor Moody to the joint session.

Governor Moody then addressed the joint session, presenting the following message:

To the Members of the Forty-first Legislature:

Complying with the provision of the Constitution of this State making it the duty of the Governor, at the beginning of each session, to address the Legislature on the condition of the State, and to recommend such measures as he may deem expedient, I herewith submit to you my views upon these subjects.

I come offering, and asking, the fullest measure of co-operation in the consideration of legislation designed to meet some of the problems affecting the

public interest. The three departments of government are, and of right should be, separate and independent. I shall attempt no infringement upon the rights of either the legislative or judicial departments. We cannot regard our relative official positions, however, without inevitably coming to the conclusion that we are each the servants of the five or six million people who have given Texas its culture and material prosperity; and regardless of the barriers and guards which the laws have placed between the legislative and executive departments, each official is a servant of the same master, and is held by the nature of the position entrusted to his care by the people to have dedicated his thoughts, his purposes and his desires, without stint or limit, to the advancement of the spiritual and material interests of the people whose trust he holds in sacred keeping for the public welfare. An examination of our duties emphasizes the fact that there is no room for selfishness, and none should be found by any process of introspection; neither should any desire to specially serve any group, class, section or special interest determine our actions, but a consuming purpose to promote the good of the whole should control our attitude toward the various problems demanding our official attention; and the only safe test of determining how any proposal does or does not advance the interest of the whole is to measure its effect upon the average man, who must be regarded in republics as the standard by which to judge individuals and groups in their desires and interests.

The Constitution gives the Executive the power to suggest, and the Legislature the power to enact, and the Executive the power to approve or disapprove legislation. Therefore, any acts which may become effective as a result of your work and executive approval must be regarded as our mutual effort. It, therefore, behooves us, as we undertake to do our measure in the public service, to jointly consider the various subjects of legislation, and since all legislation represents a compromise of views, come as nearly as we can to meeting on common ground where the circumstances and conditions make it possible, and such meeting can be effected without the surrender of principle by either, allowing nothing unreal, imaginary or selfish to divert us from our desire or destroy our opportunity for public service.

It is in this spirit and feeling that I offer and ask co-operation in the consideration of measures which we at least believe will advance the prosperity and happiness of the masses of our citizenship.

Time and experience have repeatedly demonstrated the fact that hastily considered legislation is more often inimical of the public good than beneficial to it. The very fact that laws are rules of conduct to govern man's way of living, and the conduct of his business, is sufficient justification for the most painstaking study in their enactment. Therefore, I encourage you to be deliberate in whatever you may do, and I assure you that if the time fixed by the Constitution for the regular session is insufficient, that I will convene the Legislature in extra session for the purpose of completing its work.

In discussing the conditions existing, and the needs, as I perceive them, I also propose to make certain comparisons of conditions existing now with those existing at the beginning of the biennium which has just closed. I have no purpose in doing this other than to call these conditions to your attention for whatever value the contrast may have in the consideration of measures which I anticipate will be before you.

The figures which I shall now give are furnished by officers of the State Government, and I assume them to be accurate statements with reference to the financial condition of the State.

Two years ago at this time the amount of unused appropriations made for the fiscal year was the sum of \$14,121,320.50. The deficiency appropriations authorized by the Executive between the special session of the Thirty-ninth Legislature, and prior to January 1, 1927, amounted to the sum of \$180,500. On January 1, 1927, the outstanding deficiency warrants issued for sheriffs' and other officers' accounts amounted to \$56,627.84. It was estimated that it would require \$200,000 additional to meet these accounts during the remainder of the fiscal year. On January 1, 1927, the amount of prior appropriations unused was \$2,380,250.24. The total of these figures is \$16,938,698.58, which represented the amount of money that might be drawn against the income of the State between January 1, 1927, and August 31, 1927. It was estimated that the receipts for the fiscal year ending August 31, 1927, would be the sum of \$18,415,720.15, of

which \$4,224,157.64 had been collected prior to January 1, leaving the remaining estimated net income of the State for the year ending August 31, 1927, at \$14,502,426.39. On December 31, 1926, there was in the general revenue fund of the State the sum of \$1,342,976.12, with outstanding warrants amounting to \$681,045.22. I am advised by the State Treasurer that this balance included about one million dollars advanced to him by depository banks.

The budget prepared by the Board of Control and presented to the Fortieth Legislature recommended the appropriation of \$37,748,058.56 for the support of the government in its various functions.

The following figures deal with the present financial condition of the State, and are furnished to me by the same State officers. The amount of unused appropriations made for the present fiscal year is the sum of \$14,896,654.72, deficiency appropriations have been authorized by me, since the last session of the Legislature, in the sum of \$148,146.84. There were outstanding on January 1, 1929, for sheriffs' and officers' accounts deficiency warrants in the sum of \$113,676.93; and it is estimated that the additional amount needed to meet the accounts of sheriffs and other officers to the end of the fiscal year will be the sum of \$200,000. The amount of prior appropriations unused to January 1, 1929, is \$1,667,648.30. The total of these figures is \$17,026,126.79, representing the amount of money which may be drawn against the income of the State during the remainder of the fiscal year. It is estimated that the receipts for the fiscal year ending August 31, 1929, will be \$20,269,900.56, of which \$3,259,938.94 has heretofore been collected, leaving the estimated net income for the year ending August 31, 1929, at \$17,009,961.62. The balance in the general revenue fund on the 31st of December, 1928, was \$137,641.59; and the amount of warrants outstanding against this balance was \$1,474,839.74. The Comptroller estimates that the balance in the general revenue fund at the end of the present fiscal year will be approximately \$183,000, as against the estimated deficiency two years ago.

You will recall that the Fortieth Legislature appropriated \$1,500,000 to supplement the available school fund. It was provided that the apportionment should not exceed \$15 per capita. This

per capita apportionment has been paid without the use of this appropriation, and, therefore, that sum of money, unless the law is changed, is to be deducted from the amount of unused appropriations given above in determining the condition of the general revenue fund.

In addition to the above, the appropriations made for rural aid, payment of high school tuition, prison support, and summer schools for institutions of higher learning proved inadequate to meet the demands made on them.

The budget prepared by the Board of Control for the ensuing biennium recommends the appropriation of \$45,359,767.80 for the support of the government in its various functions. It is to be observed that this budget fixes the needs of the institutions and departments at \$7,500,000 more than the budget presented to the Fortieth Legislature.

Language used in a message to the Legislature in the past is expressive of my feeling, and I quote it:

"The State should not be penurious, but the exaction of a greater tribute by way of taxes levied and collected than is necessary for the efficient and economical administration of the government is to be condemned. I urge that the Legislature in the appropriation of the public revenues bend every effort toward the utmost degree of frugality consistent with the functions of government. Necessary activities of the government should not be crippled for the want of sufficient funds, but in the expenditure of the people's money let us realize that they have no security for the practice of economy except in the fidelity of their public officials. As in all other affairs, it is our solemn duty to protect the interests of the people of our State, and the spirit of the Constitution with regard to appropriations should be strictly observed."

I have no disposition or desire to impair the efficiency of any necessary department or institution of government by insufficient appropriations, but I have a keen desire to see that no department or institution receives more money by appropriation than it will need under the most careful and economical management. I hope that the Legislature, in the consideration of the appropriation bills, will carefully scrutinize every request that is made, and endeavor in the final writing of the bills to provide for that which is necessary and protect the public from all

unnecessary expenditures. I know, and you know, that many of these so-called needs, though urged upon you with much apparent enthusiasm, are imaginary. They should not be granted.

Co-ordination of Departments.

Improvements and economies are being practiced in every-day business life, where the standard of value is efficiency, but there is too much of a disposition to run governmental business in the ruts which time has worn. We are accustomed to the old forms and usages, and are reluctant to depart from them. There is no reason why the government should not take advantage of new methods, that will make for more efficient and more economical administration of public affairs. Reorganization of State government, with a view to reducing expenses, increasing efficiency and fixing responsibility, has been undertaken and accomplished in other States, but in Texas there has been no such progress even attempted. Our governmental structure has been hardly changed for fifty years, except that the Legislature has created from time to time additional boards, bureaus and commissions. The Governor of Texas, under the present apportionment of governmental responsibility, hardly has the opportunity to form a policy, and is without power to enforce departmental efficiency. Such administrative officers as the Comptroller of Public Accounts, the State Treasurer, the Commissioner of the General Land Office, State Superintendent of Public Instruction, and the Commissioner of Agriculture, are entirely independent of the Governor, and administer their respective offices under no executive supervision, without any co-ordination, and in the past there has been actual friction among themselves or with other departments. I believe that the Governor should be made an officer of greater responsibility; that he should be given the opportunity to fix policies and the power to carry them out; that, to this end, he should have power to appoint and remove the administrative department heads. With such authority the Governor could and would be held responsible by the people for the administration of the State government. I would like to see this Legislature go thoughtfully into the reorganization of the State departments to eliminate unnecessary departments, commissions and bureaus, co-ordinate the efforts of the various departments, and

fix additional responsibilities upon the Chief Executive to the end that he may have a policy and some power to execute it. When this is done, bureaus and boards can be abolished or consolidated, with the result that instead of having perhaps a hundred in our State government, the number could be reduced to fifteen or twenty. I hope that this Legislature will make a survey, or cause one to be made, of the possibilities of this suggestion, and before passing the appropriation bills, see what steps can be taken, under existing constitutional provisions, toward the elimination of some of these departments, commissions and bureaus, and the placing of greater responsibility for administrative efficiency upon the Executive. This is, in my judgment, a real avenue for effecting economy and efficiency in public administration. It means fewer jobs, better paid men and less expense to the taxpayer. Unless something of this kind is done, the only promise that the present holds for the future is that the budgets recommended by the Board of Control will continue to be larger and larger every biennium and each Legislature will be asked to create more and more offices. I do not believe there is a man or woman in this body who can successfully contend that every department of the State government, and every board and bureau now existing is essential to the competent administration of the public affairs. Then why not co-ordinate their activities, and eliminate such as serve no essential purpose?

This may not meet with popular approval, or with your approval, but I welcome the day if it ever comes when Texas will adopt the short ballot, elect a Governor, Lieutenant Governor, and Attorney General, with power in the Governor to appoint the administrative heads and have responsibility fixed upon him for efficient administration. This is in line with the best thought of the time on administration of State government, and is the system employed in those States which at the present are showing the greatest progress in administrative efficiency. The Legislature could hardly address itself to a greater project than the modernization of our State government.

I expect to make some specific suggestions with regard to this matter, and I hope that you will consider this before the appropriation measures are passed.

Highways.

The designated highway system of this State comprises something more than twenty thousand miles of roads. Progress has been made in the development of these roads, but we are far from a connected system of highways. When the amount of work and money necessary to complete the system is considered, it seems that a system of connected highways over this State is far enough from a reality to be regarded by some as only a dream to be indulged by enthusiasts. It can be made a reality.

I do not care to burden you with a restatement of the conditions existing in the Highway Department two years ago or with a statement of the general highway situation in this State as it existed then. The facts are of such general knowledge and so recent that all are acquainted with them and remember them. I do deem it proper, however, to make some brief statement of what has been accomplished in the past two years.

The mileage placed under contract and construction in the last two years is something in which those interested in road development can, in my judgment, take pride. The Department has contracted and placed under construction 658 miles of concrete road, 325 miles of bituminous hard-surfaced road, 1483 miles of grading and drainage structures, 225 miles of graveled, shell and caliche highways and 1069 miles of asphalt-topped highway. That is more than 3700 miles of highway work in two years. Construction work involving \$29,412,829.91 has been inaugurated. This means that more miles of all-weather highway have been built in the last two years than in any like period in the history of the State.

The present system of financing the Department places legal obstacles in the way of outlining a program to last over a period of years and building to the completion of such program. The Highway Commission has to be in a position at the end of every biennium to practically say: "Here is our money, and here are the contracts; there is money enough to pay off the outstanding contracts, and the Department can be closed without any indebtedness remaining against the State." Our system of construction has been essentially one initiated by counties and road districts. The Department does not have sufficient funds to make plans to build long stretches of road and ex-

ecute such plans. It has had to depend upon local initiative to supply funds to supplement the moneys available to the Highway Department. This, in a measure, accounts for the gaps which are now to be found in our designated highways. The Department can use moral suasion to encourage counties and districts to pass bond issues and aid in building roads. If the bonds are voted, the roads can be built. However, if the Highway Department builds roads in one county without aid from local funds, then other counties expect the same thing with reference to their roads, and the Department does not have sufficient revenues to complete all roads independent of local aid.

The thing of first importance toward the completion of our roads, in my estimation, is to give the Highway Department a certain and continuous fund in sufficient amount to carry forward the construction of a connected system of highways in this State. It is not practical to talk of giving them sufficient funds to build all of the twenty thousand miles of designated highway in one year or any other brief period of time. The highways should be surveyed and classified as to the importance of the public need which each road serves. The more important ones should be placed in one class, and the less important in another class. Provision should be made for completing, as soon as possible, these highways falling in the first class and of major importance, and a certain, continuous fund in sufficient amount should be supplied to the Department to complete these roads. The revenues of the Department should be of sufficient certainty and amount to make it possible for the Department to outline a program for the construction of these major roads and complete their construction at as early a date as practical. I favor a law allocating a large enough portion of the revenues to the construction of these more important roads, or roads placed in the first class, to insure their completion at the earliest possible date.

According to the thought prevailing in this country and the practices in other States, there are three ways of financing highway building. They are:

(1) A pay-as-you-go plan. This plan contemplates the construction of highways from current revenues derived from various means of taxation, and by local bond issues retired by an ad valorem tax.

(2) A State-wide bond issue which the revenues received by the Highway Department from an occupation tax on gasoline and license of motor vehicles are pledged to redeem.

(3) A combination of the bond and pay-as-you-go plan, contemplating a small issue of bonds and the use of a larger part of the current revenues for construction than is contemplated by the second plan.

I am not so far committed to any of these plans that I cannot support another. The objective is a system of permanent highways built at a minimum cost and completed at the earliest practical date. While I believe that one means is better than the other of reaching this end, I am ready to compose my views with those entertained by others, and take the best that can be obtained to promote the building of highways in this State. No one should stand in the way of attaining the desired end, namely, a completed road system, because the majority of those entrusted with power to adopt a policy is unwilling to support his particular plan.

Considerable has been said about the amount of interest on a bond issue, but I suggest that if you will figure the initial cost of a graveled road; the cost of maintenance; the amount of the annual depreciation in value; and the interest on the investment, not to include the increased expense of transportation over graveled roads, as compared with the cost of transportation over more permanent types of highways; and compare this with the cost of construction of a hard-surfaced road plus the cost of maintenance and interest on the investment, you will find that the amount saved in maintenance will far exceed the interest item to be paid on the bonds issued to build the hard-surfaced road.

The following, clipped from a pamphlet, seems to succinctly state certain principles of road finance. I regret my inability to give the author credit to which he is entitled.

"States in the initial state of highway development should issue bonds to defer that portion of the annual charge for construction which would overburden either property or the road user.

"States where original construction programs are under way can, in the main, finance normal new construction from current funds, utilizing bond issue funds to defer the cost of special projects.

"States where original construction is largely completed are concerned chiefly with maintenance and reconstruction, and should depend upon current funds save in cases of emergency."

I leave you to classify this State by the progress made in road development under the above quoted statements. In classifying Texas according to its road development, do not lose sight of the fact that our problem is greater than that of any other State of the Union, because of the area of the State and our unusually large mileage of designated highways.

Feeling that this would be one of the greatest questions before this session of the Legislature, and surmising that there would be many proposals advanced anent the question, I asked you to appoint a committee of thirty-one to give thought to the question and present its suggestions to you. This committee met, as you have been advised by the public press, and adopted certain suggestions which were furnished me by a report of its chairman. I attach hereto a copy of the report and recommendations of this committee for your consideration, and for identification mark it "A." A minority report was also filed, and I attach it and for identification mark it "B."

The men who compose this committee are of an exceptionally high type, and I want to congratulate the Legislature upon the selections which it made. They are progressive-minded men, without selfish interests, who had given previous thought to the questions which came before the committee at its meetings. I believe I can say that the committee holds itself in readiness to give further aid to the Legislature, if that is desired by you. My purpose in asking for the committee was that both you and I might have the benefit of the judgment of men of this type on the various proposals for highway development. The committee has no disposition to direct the course of legislation, but it wants to give any aid which it can in advancing highway development. Its majority report represents the composite judgment of a majority of the committee. There are some splendid suggestions made by this committee to which I hope you will give consideration. The proposals which it advances for road development are such as I am ready to support.

To my mind, your two principal problems in highway matters are: First, the immediate needs of the De-

partment for this biennium; and, second, the adoption of a program that will last over a period of years and give the Department the opportunity to initiate and the power to execute a program and policy. With reference to the first, let me say that highway construction cannot continue for the next two years with the same degree of progress as for the past two years under the current revenues of the Department, and if you share a desire, which I believe the people of Texas hold, namely, that the next two years shall witness as much or more highway construction than the past two years, then it will be necessary for you to increase the present revenues of the Department.

The second problem calls for the adoption of a permanent policy towards the Department which will give it the opportunities before mentioned. You may take the pay-as-you-go plan, which will make the present cost very high; or you may take the plan of deferring the payments by the issuing of bonds,—and I am ready to support either that the Legislature may determine to be the proper policy for this State.

A thing which must be borne in mind in adopting a policy of financing the Highway Department is the fact that our present system imposes a large burden upon real estate,—upon the farms and ranches and homes of the country, in the support of road development. The theory that the benefited property shall pay the cost of construction is responsible for this condition, and we know that many men living miles and miles from a designated highway, and who seldom have use of it, are called upon to pay taxes upon their physical property to help pay cost of construction of the road. All figures available are to the effect that agricultural lands are bearing a larger proportion of taxes than the returns justify, when measured by the returns received from other investments. We further know that home ownership is most valuable to our society, and that the high taxes imposed upon home ownership make it difficult for some men of moderate means to own a home and pay for it upon their incomes or salaries. In considering this matter of financing highway construction, I believe that the Legislature should have in mind the idea of adjusting this inequality in our taxing system and relieve, in so far as possible, lands and other property from this form of taxa-

tion by more justly dividing the cost of road construction between the traffic which the road serves and the property which the road benefits. The cost of the more important and heaviest travelled roads should be met by the traffic.

Highways cannot be valued alone by their cost, or by their saving in dollars and cents in the cost of transportation. It has been rather successfully proved that a hard-surfaced highway is a paying investment to the public in what it saves in the cost of transportation, but the benefits of a connected system of highways extends in so many different directions and so far that it is impossible to name every resulting good. The expression may sound odd, but good highways have a spiritual value to the community, in the opportunity afforded the citizenship to intermingle and acquire education through travel. We want more roads in this generation, more roads per dollar, and Texas out of the mud in five or ten years.

Education.

Highways and education are related in at least the sense that they both contribute to the development of the very best in society, and I shall pass from a discussion of highways to the question of education and the public school system.

It is with pride that I point to the fact that the public school system has been better supported during the past two years than in any like period in the history of the State. The fifteen dollar per capita apportionment was paid from the available school fund last year, and is being paid again this year, and, as I have elsewhere pointed out to you, this has been done without drawing upon the \$1,500,000 appropriated from the general revenue fund to supplement the available school fund. In addition to the above, two distinct accomplishments were made possible by acts of the Fortieth Legislature for the betterment of school conditions in this State. They were, first, the distribution of the rural aid fund in a manner to give a six months' term at State expense to all rural schools which qualified for rural aid and, second, the provision for the payment of high school tuition of children who live in districts that do not furnish high school facilities. These were steps taken in the direction of equalizing educational opportunities existing in rural sections with those existing in cities and towns.

I might say here that the funds appropriated by the Fortieth Legislature for these two purposes were inadequate to meet the demands. The Superintendent of Public Instruction will report the exact amount of the deficit.

At the last general election the people adopted an amendment to Section 8, of Article 7, of the Constitution, giving you the power to provide by law for a State Board of Education, whose members are to be appointed or elected, as you may determine, and to serve for such a term of years as you may prescribe, not to exceed six years.

This amendment offers an opportunity for a great and far-reaching service to the public school system of this State. Realizing the interest which the presidents of our State institutions of higher learning have in the cause of education, and placing a high value upon their experience, and their study of educational problems in this State, I asked that they make some suggestions for giving effect to this amendment by legislative enactment. The following is their synopsis of what they regarded as proper means of giving force to the amendment:

1. To consist of nine members appointed by Governor with consent of Senate.

2. Terms to consist of six years.

3. Terms of three members to expire each two years.

4. No member to be resident of any county in which is located any one of the State's institutions of higher learning.

5. Members to be representative citizens, laymen, not engaged actively in the work of education.

6. Members to receive a reasonable per diem for time actually spent in work, with expenses incurred in attending meetings and in actual performance of duties.

7. Meetings to be held quarterly at stated times, and at other times when called by the president or by three members of the Board.

8. Duties:

(a) To perform all those duties now prescribed by statute for the present ex officio Board of Education, and such other duties as the Legislature may prescribe.

(b) To carefully consider the financial needs of the State's institutions of higher learning, and to make recommendations concerning the same biennially; to submit these recommendations to the State Board of Control, who shall em-

body them in their report, together with the original requests of these institutions, transmitting the same to the Governor and the Legislature.

(c) To make formal recommendations to the Governor and the Legislature concerning all proposals for the establishment of new educational institutions.

(d) To make a careful study of the general scope and purport of the work of all the State institutions of higher learning, with special reference to the needs of the State and to existing legislation establishing these institutions, and with the special design of eliminating any needless or wasteful duplication of work. All such recommendations are to be made to the board of directors of such institutions and to the Governor and the Legislature.

(e) To elect a State Commissioner of Education for a period of four years, to provide his qualifications and fix his salary, and to recommend the salaries of assistants to be nominated by him.

9. Nothing in this act is to take away from them the powers now held by the governing boards of these institutions.

10. Duties of Stat Ceommissioner of Education:

(a) To perform all the duties now devolving under the law upon the State Superintendent of Public Instruction.

(b) To be the secretary and the executive officer of the State Board of Education.

(c) To perform such other duties as the Legislature or the State Board of Education may require.

In paragraph 8 (e) they suggest that the head of the Department of Education should be appointed by the Board of Education, rather than chosen by election.

I believe this suggestion is wise; it does not conflict with the views I have expressed in regard to grouping of departments and official responsibility, and it has my support.

I believe that the Department of Education, as reorganized under the new Board of Education, should include a division of higher education, which, in addition to collecting information concerning our institutions of higher learning, should so familiarize itself with our general educational scheme as it affects higher education that it would be able to direct legislative attention to any needless duplication of effort in our institutions of higher education and present a means of correlating the sev-

eral activities and purposes of our colleges and universities. This would not involve the creation of new positions.

In my judgment, it would be well to give the Board authority in the certification of teachers, with power to adopt regulations which would insure better trained teachers for our school system. I am further of the opinion that with a properly organized Board of Education, the duties and functions of the Text Book Commission can be entrusted to that Board, and the Text Book Commission abolished.

I hope this Legislature will make provision for a \$15 per capita apportionment for the school years 1929-30, and 1930-31, and in addition thereto make an adequate appropriation for rural aid and the payment of high school tuition for children residing in districts which do not furnish high school facilities.

The climate, nature of our soil, and general physical make-up of our State indicates that the Creator of this universe intended it primarily as an agricultural country. Agriculture has been the basic industry of our State in the past. It is the basic industry now, and every promise is that it will continue to occupy first place among the industries of this State. The man on the farm is engaged in raising the things that feed and clothe the man who lives in the city, and it is upon his production and trade that our towns and cities have been built and values multiplied in the populous centers. To my mind, we do the men who live on the farms and ranches a gross injustice when we expect them to produce our annual billion-dollar harvest, and we continue a system which handicaps them in their efforts to educate their children, and does not even attempt to give their children an educational opportunity equal to that existing in the cities and towns. It is an injustice to our whole society and social system. One may contend that theoretically the law draws no distinction between a rural school district and a city district, and theoretically that may be true. I have no disposition to debate the question, but we all know that with the higher values in city districts and the consequent better opportunities for raising funds, a great inequality exists between educational facilities in cities and towns and those existing in rural communities. This is a policy which, instead of encouraging rural life by making it more attractive, tends

to discourage people from remaining in the rural life of this State.

As long as we continue the present system of school finance, Austin and other cities and towns will have good schools, but children living in the outlying districts will have educational opportunities inferior to what should be available to them.

There is considerable opposition to the suggestion of the county as a unit of school administration in this State because of the fear that some county authority will supplant the local school board in the management of local school affairs and the selection of teachers, etc. The objection comes from the local school districts. There is some objection to the county as a unit of financial support in the school system, because it means taxes levied on a county-wide basis for school support. This objection comes from people with the viewpoint of the cities and towns. Let us heed the objection of the local people who oppose the county being made the unit of school administration although the fear upon which it is predicated is largely exaggerated. The cities and towns that have been built on the wealth made in rural communities cannot justly oppose the county as a unit of financial support. This Legislature can submit, and I believe the people would adopt, an amendment providing for a county-wide tax to create a county equalization fund for county-wide school support. It would help make rural life more attractive and do simple justice by the people who live on the farms and are undertaking to educate their children, because it would afford better rural schools. I hope that you will give careful consideration to this suggestion, and if by proper amendment or otherwise, the county is made the unit of school support, you will do a far-reaching service to hundreds of thousands of school children in this State, and to millions yet unborn.

There is another suggestion which I wish to make. General efficiency and material improvement in rural education can be promoted by placing it upon the same plane for administrative purposes as cities and towns. The cities and towns employ the most mature, best trained and most experienced teachers, and administer their schools through the most skilled men and women, contributing to the excellent school systems of our cities and towns. They are unaffected by the exigencies of political campaigns. The situation

with reference to rural education administration is very different. The rural school system is dependent upon political exigencies, and frequently very poor professional leadership is given the rural school system of the county as a result of some campaign for county school superintendent. If the system of allowing the school board in the cities and towns to select the superintendent has proved satisfactory, and advanced the school system, and it has; I think that it logically follows that rural education would profit by allowing the county school board to select the county superintendent. In this manner, the professional leadership in rural education could be released of its utter dependence upon political campaigns.

Public Lands.

I want to invite the Legislature's careful consideration of the statutes with reference to the selling of public lands, and oil and mineral leases on them. The present statute providing for the sale of mineral leases on University lands was passed with a view of stimulating development. Present conditions are different from those which give rise to this statute. The Board of Regents is advocating that these leases be withdrawn from the market. I believe that the statute should be amended to give the Board of Regents the power to negotiate leases on this land and sell them to the highest bidder after advertisement. The Board of Regents should have power to accept any bid or reject all. The machinery of preparing the lease and keeping records of title, etc., should remain in the Land Office as under existing law.

As I understand the attitude of the land department, it is that under the statutes and holdings of the Supreme Court it can only value and sell the agricultural, grazing or other surface rights on public lands, though the sale of that right carries with it the agency to lease the land, which agency, in many instances, is many times more valuable than the surface rights. I invite your consideration and investigation of the sale of a certain alleged vacancy in Pecos county while a suit was pending on appeal from a judgment of the district court of that county involving certain lands adjacent to Block No. 194, G. C. & S. F. Ry. Co. lands, and Sections Nos. 30, 31, 32 and 33; and to another sale of an alleged

vacancy in Upton county adjacent to Block 42, Township 58, T. & P. Ry. Co. and Block 30 of University lands as an example of the situation created by this construction of the law and system of applying it and the need for some change. I shall be glad to furnish the Legislature with records and correspondence concerning these matters.

Some measure should be adopted to give the State better protection in the sale of this land to make certain that the State gets the value of its property, and that justice and fairness obtain in all such transactions.

Courts.

I shall renew a suggestion made to the Fortieth Legislature. It was suggested that the Legislature submit an amendment increasing the membership of the Supreme Court from three to nine. That amendment was submitted, and, along with certain other amendments, defeated. Since that time the State Bar Association has passed a resolution asking that the Legislature again submit such an amendment.

The cases coming before the Supreme Court have grown to such a number that the inability of three men to dispose of them has been clearly demonstrated. The present system of the Supreme Court and two Commissions of Appeals is equivalent in number of a Supreme Court of nine members, but the duplication of work is so great that the business cannot be disposed of with the dispatch of a Supreme Court of nine members. Under the present system the case is argued before three judges, and the three units work separately; two units are without authority except as their opinions are reviewed and adopted, or reviewed and approved, by the Supreme Court. The opinions of the Commissions of Appeals, when approved by the Supreme Court, have the force to decide important questions of law as applied to the facts of the particular case, but the questions have never been argued before the court which must approve the opinions, and the volume of the business limits the court to a superficial examination of these questions.

In the end, an opinion of the Commission of Appeals has no value except in the one case, and is only decisive of the questions as they are involved in that individual case. While the court is reviewing the opinions prepared by the Commissions, three highly trained and expensive professional men

are engaged in checking the work of six. The law books are being filled with opinions which have the approval of the Supreme Court, but are authority in no case except the one in which the particular opinion is written, and in transactions involving like issues the business world may well entertain doubts as to the law. The business of the court calls for nine judges, and the State should have a Supreme Court of nine members rather than six men working as aids to three judges.

Delays in the administration of justice means additional expense which cannot be borne by the poor man, because the cost of litigation is thereby increased beyond his means. We do not want justice that is accessible to none but the wealthy class or that is denied to the poor because of expense, and therefore every possible effort should be made to reduce the delays and cost of justice and make sure that it remains within the reach of rich and poor alike.

The rules of practice and procedure should not be mandatory but directory, and I advocate placing the power to establish rules of civil procedure in the Supreme Court with the aid of an advisory judicial counsel composed of representatives of the courts and members of the bar. I call your attention to the Massachusetts and Wisconsin Judicial Counsel Acts and the Short Procedure Act proposed by the American Judicature Society.

The present Commission to aid the Court of Criminal Appeals, by law, expires in March of this year, and I am advised that the court desires that this Commission be continued. I understand that the cases coming before the court make the Commission necessary to dispose of pending business.

I renew the suggestion made to the Fortieth Legislature that the system of appeal to the Court of Criminal Appeals be amended to abolish the appeal as a matter of right, and substitute the writ of error system. It will prevent the use of the right of appeal as a means of delay in criminal cases, and therwise facilitate the enforcement of the criminal laws.

A recent meeting of the State Bar Association approved the suggestion that the terms of district court, as such, be abolished, and that the laws be amended to provide that each district court should be regarded as in session in each county of its district at all times. This suggestion should, in my judgment, be adopted and the

statutes amended so that process would be returnable within a given number of days after service, and appeal bonds, statements of fact, and bills of exception due for filing within a stated number of days after the return of a verdict or the entry of judgment. The principle of this suggestion is now in use in the courts in some of the larger cities. This would speed up the trial of cases in the district court, and would make it possible for a judge to spend the time where he was needed, rather than being required by the hard and fixed terms prescribed by law, to spend a large part of his time in a county where there is not sufficient business to demand his attention throughout the statutory term.

A recent opinion of one of our courts of last resort held that the provisions of law making the fees of the justice of the peace in criminal cases dependent upon a conviction gave the justice of the peace a pecuniary interest in the result of the case, and was therefore unconstitutional.

I have no criticism whatever of the opinion or of the court, and the opinion is sustained, as I understand, by a holding of the Supreme Court of the United States. I believe it is correct. The practical effect of this declaration of the law was to leave the justice of the peace courts without the authority or incentive, I do not know which, to continue as local tribunals for the enforcement of the criminal law. Measures should be speedily adopted to correct the defect that heretofore existed in our laws, and which was pointed out by this opinion. This can be accomplished by allowing the justice of the peace compensation for each trial, to be paid out of the county treasury, and such fees as are collected by him can be paid into the county treasury to reimburse its outlay. You will observe that this is the same system now employed for remunerating the county judge for his service in the trial of criminal cases.

The condition created by this situation must bring to our minds the many questions concerning the wisdom of a fee system for rewarding the services of public officers. There is a widespread belief that under the fee system the criminals bear the cost of supporting our public officials. It is not necessary to argue the morals of a system under which the criminal furnishes the compensation for the services of our public officers, because this belief that

popularly obtains is not literally correct. You are aware that the district clerk, the sheriff and constable in felony cases, and the prosecuting attorney in felony cases are paid out of appropriations made by the Legislature. The tax assessors and tax collectors are rewarded by the payment of fees, which come from the taxes collected. When you consider the legislation made necessary by the holding to which I have referred, I hope that you will also consider the feasibility of adjusting the public cost of some of our public officers by changing the fee system. Those who have investigated the matter know that some of our officers receive more money under the fee system than they could possibly earn in any other activity of life, and, to speak frankly, the fee system forces the people to pay some of them more than they are worth.

Tax Committee Report.

At the last session of the Legislature a Tax Survey Commission was appointed. That Commission has prepared, and I am in receipt of, its report. A copy of that report is filed with this message for your consideration. It is my plan to make specific reference to this report later.

Uniform Accounting.

The committee to study a uniform system of accounting between the several departments of the State government created at the past session of the Legislature has been at work, and will, during this session of the Legislature, present its report to you and make certain suggestions of measures which can be adopted to improve our system of accounting and effect some savings.

Civil Service.

I renew the suggestion made to the Fortieth Legislature for the adoption of a system of classified service for this State. Such a measure passed the House of Representatives in the Fortieth Legislature, but was defeated in the Senate. Those who direct governmental policies should be responsive to public opinion, and the heads of the departments be subject to change with changing administrations and responsible to the Executive, and those whose views are in accord with the prevailing popular will should formulate the policies which are to control the operation of the government. There is no reason

for extending this plan to subordinate employees, and especially those places requiring technical knowledge and skill. I believe that greater efficiency in the administration of government could be secured through the enactment of a classified civil service act, which would protect technical experts and subordinate employees in the service of the State by securing their tenure of office through changing administrations. I have consistently urged the establishment of a system of merit for civil service as a sound policy of State government.

The system can be adopted without increased cost to the taxpayer by employing some existing agency of the government as a civil service commission. Merit, qualification and integrity should be the test required of the public's employees as it is required in the ordinary business affairs of life. I recall that in the last Legislature it was urged that the adoption of civil service would lead to the creation of a civil pension list, but there are pronounced prohibitions against the creation of any such list in the Constitution of this State.

Prison System.

Progress has been made in the prison system under the present management of a Board of Prison Directors. The figures on last year's operations are not available at this date, but they will show some loss. In 1927 the system made a profit, but the increased number of convicts in the system, with the added expense of feeding and clothing them, and crop production and market prices, brought about a deficit in this year's operations.

The present appropriation for the support of the system, as those of you who served in the Fortieth Legislature will recall, was made upon the estimated cost of a prison population numbering about three thousand. For more than a year the population of the prison system has been practically forty-five hundred, or fifty per cent more than the figures used in estimating the cost of operation. The appropriation made for the fiscal year ending August 31, 1928, did not meet all of the expense and there is a deficit in an amount that I cannot accurately state at this time, but the accurate figures will be furnished to you through the auditor of the prison system. Notwithstanding the increased prison population, I pre-

dict that the report will show a saving in cost of operation.

The two years' experience has demonstrated that the present system is operated at an increased expense because of the scattered condition of its properties. I am going to ask the House and Senate to hear from the Board of Prison Directors on this subject. I hope that you will grant a joint session of the House and Senate and permit the Board of Prison Directors to appear before you. I believe the Board can give you some interesting facts concerning prison matters which it has learned from its experience in operating the system.

One of the first things essential to the successful development of a proper prison system in Texas is the concentration of the prison plants and activities. At the present time, the State operates a penitentiary at Huntsville, located in the southeastern portion of the State, on a small branch line of railroad, and eleven different farms, located from Red River to the Gulf of Mexico. (The Shaw farm was not operated last year.) The prison at Huntsville has facilities for handling not more than seven hundred men properly, and the facilities for proper employment at that place are wholly inadequate. The condition, location and nature of the prison properties require the employment of many guards, farm managers, assistant farm managers, etc., and the cost of employing them and sustenance for them will amount to almost a half million dollars each year. By proper concentration and modernization of the system, it would seem that the employees mentioned could be reduced to probably one-fourth their present number, with a total saving of more than \$200,000 annually.

In addition to that, the badly scattered farms entail much unnecessary duplication of expense and labor in the keeping of books, records, maintaining separate dairies, hospitals, machinery and in many other ways. The difficulty of proper supervision by the management of the system is also far greater with the system so badly scattered, and much time is necessarily lost by the managing officers in reaching the various units of the system.

By the proper concentration of the plants of the system, suitably located, there could be great economy and promotion of efficiency in operation. This would make possible the construction of one large prison plant, with adequate

facilities for the safe-keeping of the larger percentage of the prisoners by proper confinement within prison walls, and suitable employment at industrial pursuits; at the same time using a sufficient percentage of inmates in agricultural work and particularly in the raising of food products for the prison system. It would justify the construction and economical operation of a packing and cold storage plant for the preservation of food products raised on the system, much of which is now wasted by reason of losses from insects, excessive heat or cold or rain. In the present location of the system the State annually buys upward of \$200,000 of supplies that could be produced and saved on the system if properly located and equipped. A centralized dairy farm could be provided and live stock and poultry production could be handled on such a scale as not only to meet the necessities of prison system, but the surplus could be economically supplied to other State institutions. A modern centralized hospital could be constructed, which could be used as a receiving station and place for examinations, and for the treatment of all prisoners of the system who require medical attention, and it would justify the expense of establishing and maintaining sufficient equipment for a modern surgical hospital and a proper medical and surgical staff. In addition to imposing confinement and hard labor as a punishment for crime, the convict should not be placed under conditions which will destroy his health, nor should he be denied medical or surgical treatment when sick or injured. The State owes the convict the duty to place him in as good an environment from the social and health standpoint as the circumstances permit, and he is entitled to proper medical and surgical treatment.

It is recognized by all prison authorities and students of penology that a thing most essential in the handling of prisoners is suitable and useful employment of a nature that will be a benefit to the State and which will keep the prisoners continuously employed at labor which does not bring them in competition with general labor in the State. By a proper concentration of the prison system and a reconstruction of the prison plants, such employment can be provided for, in a number of ways, among which the following are suggested:

(a) The raising of sufficient live stock, poultry and agricultural prod-

ucts to feed the prisoners, with the surplus, when economical, supplied to other State institutions.

(b) A packing or refrigeration plant as above suggested.

(c) A modern and sanitary dairy, which will furnish a supply of milk and butter for the prison system and other State institutions.

(d) The manufacture of shoes and clothing for the prisoners, and the inmates of other State institutions.

(e) The manufacture of furniture necessary for the prison system, and as far as economically possible for State departments and institutions.

(f) A sheet metal works for furnishing metal utensils, automobile license tags, highway signs and such other sheet metal products as may be necessary for State use.

(g) A bindery for binding books, papers and documents for State use.

(h) Where economical a rock crushing plant or plants, for the crushing of rocks for the State highway system.

(i) If we are to build many miles of concrete highways, and further reduction in the price of cement is not reflected by further reductions in the bids filed with the Highway Commission for the construction of concrete highways, then a cement plant for the manufacture of cement for State use.

(j) Prisoners not thus employed could be used in the production of cotton and other marketable crops.

A separate plant for the confinement of women prisoners should be established, entirely separate from the main plant, but sufficiently near it to have the advantages of the centralized plant, and with provision for adequate suitable employment for these prisoners.

In order to carry into effect these plans, and to raise funds for that purpose, it is believed that sufficient legislative authority can be obtained by the passage of two bills, as follows:

(1) A bill granting authority to the State Prison Board to buy or lease lands for the State prison system in connection with the aid of such other officers as the Legislature may deem wise, and to sell, lease or mortgage lands now constituting a part of the prison system under such terms and conditions as the Legislature may prescribe; and providing that all funds derived thereby shall be set apart as a special fund to be used under the authority of the State Prison Board for the purchase, lease and improvement of lands for the prison sys-

tem and the construction and equipment of improvements thereof.

(2) A bill authorizing the Board of Control to make contracts with the State Prison Board for the purchase of supplies, equipment and material for use by the State, including food supplies, clothing, shoes, metal utensils and appliances, furniture and fixtures, and any and all other supplies or agricultural or manufactured products, binding, rock crushing or other labor, for the use of the State for any of its departments, commissions, boards, officers or eleemosynary or educational institutions, including any and all supplies, equipment, material or labor purchased or used by or for the State under the direction of the Board of Control.

Institutions.

I want to mention the needs of our eleemosynary institutions. The misfortune of some members of society, making their confinement in our State hospitals for the insane necessary, surely finds sympathy in the heart of every citizen. It is sad enough for one whose reason has been dethroned and suffers tortures of mind that the rational cannot comprehend to be confined in a well-organized and properly administered institution for the insane, but when such a one is thrown into a county jail with the usual unsanitary jail conditions, foul odors and improper conditions of heat in winter and ventilation in the summer, and utter absence of facilities for treatment, it is a situation that civilized people will not tolerate. Sufficient accommodations should be afforded at our State institutions for the insane to accommodate these unfortunate people. I am advised that at the present there are many insane in our county jails. This condition should be remedied as quickly as possible.

These hospitals should not be operated simply as institutions of confinement, but the salary of the superintendent should be high enough to assure the best equipped men who have the vision, experience and competency to operate these several institutions as hospitals for treatment and cure rather than just as places of confinement.

We have five million people or more in Texas, and while the ratio of insane may be decreasing, the number of insane, as our population increases, is naturally growing. Experts in the field of mental and nervous diseases and

disorders assert that in many cases a cure can be effected under proper care and treatment, if begun in time. The establishment of a psychopathic hospital, properly equipped and administered, would, according to medical advice, in the end save the cost of maintaining in our State hospitals for the insane, throughout the balance of their lifetime, many people who would, in the early stages of their trouble, be cured in a psychopathic hospital. But the possibility of cure far exceeds any economic reason for the establishment of such an institution.

While discussing this subject, I also want to speak of the blind and deaf children of our State, toward whom the State has established the policy, and I think rightly so, of maintaining schools for their instruction. These institutions should not be regarded as asylums, but they should be treated as places of instruction, and the salary paid to the superintendents and teachers should be sufficient to enable the Board of Control to select men and women who are qualified and experienced to give instructions to these children, who must go through life without the precious sense of sight, the power of speech denied, or the sense of hearing withheld.

Public Utilities.

Within the last few years large and powerful public utility companies have grown up in this State. Practically every town and village is being served by one or more such companies. In nearly every town the public utilities are without competition in the service which they severally offer, and have a monopoly of their particular business. The necessity for regulation and control is admitted. Somebody should stand between the consuming masses and the company or companies furnishing public utility service to the public. The power and duty to regulate the conduct of such companies, and the rates to be charged, under a holding of the Supreme Court of the United States, rests on the State Legislature. Some of the larger cities have regulations, but with this exception, and the limited control which the Railroad Commission has over gas companies, there is practically no regulation of this big industry. If exorbitant rates are being charged the consumers, the average city or town is practically without the legal power and finances, under existing law, necessary to correct the

abuse or to make an inquiry into the matter and bring about an adjustment. Our statutes were written when there were few utilities in this State, and for the most part, such as existed were small local concerns.

Towns which have a population of more than two thousand are empowered to regulate rate charges for water, light, sewerage and gas service; those having a population of more than five thousand, and chartered under special and home rule acts, have the right to regulate all rates, including street railways and telephone companies. Unincorporated villages and incorporated towns with a population of less than two thousand are without regulatory power. These latter communities have to pay the rate fixed by the utility company furnishing the service. The consolidation and extension of public utility lines from community to community, and from town to town, has created a situation which practically destroys the effectiveness of the power given any class of cities or towns to regulate rates. Many cities and towns are but stations on the lines of the utility companies furnishing them service. They do not have the means or facility for determining what proportion of the expense of the company or of its investment is necessary to the service of that town, or what would be a fair return upon the investment necessary to the service furnished the particular town. Therefore, they are without the information to fix the rate and without facilities and funds required to gain the necessary information.

Every public utility company is entitled to a fair return on the reasonable value of the property used in the public service, after the legitimate cost of operation is deducted, but it is impossible for any city, without tremendous expense, to make the necessary inquiry to determine what rate would yield such return. Especially is this true when the city happens to be one of many served by the same lines. The information can only be acquired by technical and experienced men, and these are expensive. The ordinary board of city commissioners neither has the experience nor the training to allocate the proper proportion of the investment or expense to their particular city.

It has been established that some power companies are subsidiaries of larger companies, in the sense that their

entire voting stock is held or controlled by some finance corporation. Contracts may be made between the utility company and engineering companies, supply companies, finance companies and managing companies, whose stocks are held by the same parent company. The governing authorities of the cities and towns are practically powerless to inquire into these matters and obtain information concerning the justness of the expense incurred in any such contracts when undertaking to adjust a fair rate.

These questions are growing more emphatic and complicated every day, and the time has come in Texas when steps should be taken for the supervision and regulation of these utilities. The masses of consumers should be given a measure of legal protection from excessive rates.

The revelations made before the Federal Trade Commission, under Senator Walsh's resolution calling for an investigation of public utility corporations, emphasizes the need of this thing.

Efforts of public utility companies to secure a friendly public feeling by means of rendering a high quality of public service is praiseworthy and deserves to be commended and encouraged, but if the necessity for a cordial attitude on the part of the public is of enough importance to call for the use of other and extraordinary means, then it might be worth the public's while to at least survey the situation.

There is a belief, and perhaps some facts to sustain it, that utility companies are interested—

(1) In creating favorable public feeling by selling blocks of their stock to the general public upon which a certain annual dividend is assured, but which is, in fact, little more than a bond, because of the relative lack of power which it carries in the company control and upon which the dividend return is small when compared with the earnings which the voting and controlling stockholders may receive from their stocks in other companies of small capital under their control, and which contract with the utility company for various purposes.

(2) In creating favorable public feeling by selecting prominent and popular citizens for memberships on their boards of directors.

(3) In attempting to create favorable public feeling by seeking to influence newspapers through the use of press agents and so-called news bureaus.

(4) In creating favorable public

feeling by influencing the incorporation of teachings on certain theories of economics in the text books used in the schools, and through influencing certain teachings in the extension departments of universities and colleges.

I have advocated the consolidation of departments of government, but I believe that utility control should be established in this State, and it can be done without conflict with the consolidation which I have advocated. I estimate that the expense incident to the support of such control will be small when compared with the money saved to the thousands who are now buying the service of public utility companies.

If the application of modern principles of science have reduced the cost of production and distribution, the resulting financial benefit should accrue to the consuming public through a reduction in rates.

I place a high value upon the opportunities of the Forty-first Legislature for public service and have great hopes that much will be accomplished for the public good.

Respectfully submitted,
DAN MOODY, Governor.

"A."

REPORT OF CITIZENS' ADVISORY COMMITTEE ON HIGHWAY MATTERS.

On November 27, 1928, in response to the Governor's call, the following members of the Citizens' Advisory Committee, representing the thirty-one senatorial districts of Texas, met in the Senate Chamber at Austin, Texas. Mr. D. K. Martin, of San Antonio, was selected as chairman:

W. A. McCartney, Texarkana, Texas.
E. C. Claybaugh, Jr., Carthage, Texas.
W. E. Thomason, Nacogdoches, Texas.
Emmett A. Fletcher, Beaumont, Texas.
Ed Murphy, Livingston, Texas.
T. L. Wynne, Athens, Texas.
Cone Johnson, Tyler, Texas.
R. J. Easley, Detroit, Texas.
G. P. Webb, Sherman, Texas.
John Middleton, Greenville, Texas.
Will B. Marsh, Dallas, Texas.
John V. Singleton, Waxahachie, Texas.
J. M. Penland, Waco, Texas.
Chas. S. Gainer, Bryan, Texas.
Leonard Tillotson, Sealy, Texas.
W. O. Huggins, Houston, Texas.
John L. Darrouzet, Galveston, Texas.
R. L. Pettus, Goliad, Texas.

F. C. Weinert, Seguin, Texas.
Geo. C. Calhoun, Austin, Texas.
Charles Neblett, Stephenville, Texas.
Pat Williams, Mineral Wells, Texas.
M. K. Graham, Graham, Texas.
Ben L. Russell, Baird, Texas.
W. H. Baker, Junction, Texas.
D. K. Martin, San Antonio, Texas.
W. L. Pearson, Corpus Christi, Texas.
W. T. Wheeler, Fort Worth, Texas.
Roger Gillis, Del Rio, Texas.
John H. Doyle, Levelland, Texas.
J. S. Hamlin, Farwell, Texas.

The committee adopted the following resolution:

Resolved, That it be the sense of this committee that the present organization of the Highway Department, with an appointive Commission of three members, should not be changed.

The following sub-committees were appointed:

Highway Finance Committee.

W. B. Marsh, Chairman, Dallas, Texas.
J. M. Penland, Waco, Texas.
J. S. Hamlin, Farwell, Texas.
G. P. Webb, Sherman, Texas.
John L. Darrouzet, Galveston, Texas.
Emmett A. Fletcher, Beaumont, Texas.
Cone Johnson, Tyler, Texas.
Leonard Tillotson, Sealy, Texas.
W. O. Huggins, Houston, Texas.
B. L. Russell, Baird, Texas.

Motor Control and Traffic.

Geo. C. Calhoun, Chairman, Austin, Texas.
Pat Williams, Mineral Wells, Texas.
T. L. Wynne, Athens, Texas.
W. T. Wheeler, Fort Worth, Texas.
R. J. Easley, Detroit, Texas.
John Middleton, Greenville, Texas.
R. L. Pettus, Goliad, Texas.
Charles Neblett, Stephenville, Texas.
W. H. Baker, Junction, Texas.
John V. Singleton, Nacogdoches, Texas.

Registration and Weight Fees.

Roger Gillis, Chairman, Del Rio, Texas.
W. A. McCartney, Texarkana, Texas.
E. C. Claybaugh, Carthage, Texas.
Ed Murphy, Livingston, Texas.
C. S. Gainer, Bryan, Texas.
F. C. Weinert, Seguin, Texas.
W. L. Pearson, Corpus Christi, Texas.
John H. Doyle, Levelland, Texas.
W. E. Thomason, Nacogdoches, Texas.

On appointment, the sub-committees promptly organized and began their work and on December 10, 1928, on a call from the general chairman, such sub-committees submitted the following respective reports:

Highway Finance Committee.

The following recommendations were made by the highway finance committee:

First: That Section 48 of Article III of the Constitution of the State of Texas be amended so as to hereafter read as follows:

"Sec. 48. Power to Levy Taxes.—The Legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

"The payment of all interest upon the bonded debt of the State;

"The erection and repair of public buildings;

"The benefit of the sinking fund, which shall not be more than two per centum of the public debt; and for the payment of the present floating debt of the State, including matured bonds for the payment of which the sinking fund is inadequate;

"The support of public schools, in which shall be included colleges and universities established by the State; and the maintenance and support of the Agricultural and Mechanical College of Texas;

"The payment of the cost of assessing and collecting the revenue; and the payment of all officers, agents and employees of the State government, and all incidental expenses connected therewith;

"The support of the Blind Asylum, the Deaf and Dumb Asylum, and the Insane Asylum; the State Cemetery, and the public grounds of the State;

"The enforcement of quarantine regulations on the coast of Texas;

"The protection of the frontier;

"The construction and maintenance of a system of highways and reimbursing outlays and assuming obligations made by counties and defined road districts of the State therefor."

Second: That Sec. 49 of Article III of the Constitution of the State of Texas be amended to read as follows:

"Sec. 49. When Debts May Be Created.—No debt shall be created by or on behalf of the State, except to supply

casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, pay existing debt, and the indebtedness under the provisions hereof shall at no time exceed two hundred thousand dollars;

"Provided, however, that the credit of the State may be extended for the purpose of constructing and maintaining a system of highways and reimbursing outlays and assuming obligations made by counties and defined road districts of the State therefor, for which purposes the total indebtedness at any time outstanding shall never exceed \$225,000,000;

"Provided further, that the Legislature shall apply the revenues arising from gasoline taxes and registration fees on motor vehicles and taxes on commercial vehicles engaged in the business of transporting persons and property within the State then existing, before resorting to an ad valorem property tax as a means of discharging such bonds and obligations; provided, that nothing herein shall ever be held to affect existing provisions of the Constitution of this State under which one-fourth of all occupation taxes are applied to the public free school fund."

The general committee adopted the recommendation of the finance committee that the two foregoing additions to Sections 48 and 49 of Article III of the Constitution should be submitted to the people as a unit.

The vote upon the adoption of the two constitutional amendments above named was as follows:

Yeas.

W. A. McCartney, Texarkana.
E. C. Claybaugh, Jr., Carthage.
Emmett A. Fletcher, Beaumont.
T. L. Wynne, Athens.
Cone Johnson, Tyler.
G. P. Webb, Sherman.
Will B. Marsh, Dallas.
John V. Singleton, Waxahachie.
J. M. Penland, Waco.
W. O. Huggins, Houston.
John L. Darrouzet, Galveston.
F. C. Weinert, Seguin.
Pat Williams, Mineral Wells.
Ben L. Russell, Baird.
D. K. Martin, San Antonio.
W. T. Wheeler, Fort Worth.
Roger Gillis, Del Rio.

Nays.

R. J. Easley, Detroit.
John Middleton, Greenville.

Chas. S. Gainer, Bryan.
 Leonard Tillotson, Sealy.
 Geo. C. Calhoun, Austin.
 Charles Neblett, Stephenville.
 M. K. Graham, Graham.
 W. H. Baker, Junction.
 W. L. Pearson, Corpus Christi.
 J. S. Hamlin, Farwell.

Absent and Not Voting.

W. E. Thomason, Nacogdoches.
 Ed Murphy, Livingston.
 R. L. Pettus, Goliad.
 John H. Doyle, Levelland.

Total—17 yeas, 10 nays, 4 absent.

The further recommendations of the finance committee following the adoption by the people of the two foregoing constitutional amendments were adopted as a legislative program:

First: The Legislature shall make provision by law for sources of revenue to a fund adequate to the construction and maintenance of a State system of public highways and to other purposes herein expressed, and the revenue to such highway fund shall include fees on motor vehicles, a tax on gasoline or other products of gas or petroleum and other explosives used for motor power, and a tax or charge upon commercial vehicles engaged in the business of transporting persons or property within the State; and the measure and form of the income from such sources of revenue shall be such as the Legislature may determine; provided, that one-fourth of any revenue from a tax on gasoline shall be paid into the available school fund as now provided for all occupation taxes.

Second: In the event the constitutional amendments elsewhere in this report provided shall be adopted by the people, the Legislature also shall make provision for refunds to counties and road districts, to compensate such counties and road districts for expenditures which they may have made for the construction or improvement of roads forming a part of the State highway system, such provisions for refund to authorize a referendum vote in the particular county or road district entitled to receive such refund to determine whether such refund shall be used for the improvement or construction of lateral roads in such county or district or be applied upon the interest and principal of any outstanding road bonds of such county or road district, the

total amount of such refunds not to exceed the sum of \$75,000,000.

Third: For the purpose of providing funds adequate for the construction of such system of State highways and for the making of such compensation to the counties and road districts, the Legislature may authorize the issuance of obligations of the State of Texas and for the further security of said obligations, both principal and interest, may pledge any part of the above enumerated revenues to the highway fund; provided, however, that such obligations shall not exceed the amount which a three-cent tax on gasoline will redeem, principal and interest; and provided further, that the principal amount of such obligations outstanding at any one time shall never exceed the sum of \$225,000,000.

Fourth: Nothing herein contained shall abridge existing authority of any county or defined subdivision thereof to use its credit for the construction and maintenance, under provisions of law, of such roads within such county or defined subdivision thereof as a majority of the qualified property taxpaying voters therein may determine by an election held for that purpose.

Fifth: It is further recommended by this committee that if and when adequate funds for the Highway Department have been otherwise provided the Legislature will provide for the equitable distribution of the registration fees on all motor vehicles except those used for commercial purposes locally to the several counties.

Resolved, This committee further recommends that the Legislature enact such legislation under present constitutional authority as necessary to provide for the adequate financing of the highway maintenance and construction activities of the State on a basis at least equal to present Highway Department budget requirements, which is not less than \$20,000,000 for construction per annum and \$10,000,000 for maintenance per annum from State funds.

Motor Control and Traffic.

To the General Committee, Highway Affairs:

We, your committee upon motor and traffic regulation, desire to submit herewith for your approval our report, and in connection therewith we recommend to you that the following recommenda-

tions be made to the Legislature of the State of Texas for their consideration:

I.

We believe that in the interest of the traveling public the total or over-all length of any one vehicle or any group of connected vehicles, including leading unit and trailers, should be limited to a reasonable figure, and there to be not exceeding one trailer, or semi-trailer, save and except those operated within the corporate limits of a city.

II.

It is believed that the maximum width of 90 inches, including the load, is adequate and that a greater width with present narrow roads and resulting small clearance for passing vehicles is undesirable as presenting unwarranted road hazards.

III.

We believe firmly that the headlight law should be simplified and revised to insure practical application, and rigidly enforced, and that the law be further amended to prohibit the handling of any equipment that cannot be used under the present law.

IV.

We believe the State highway law should authorize the issuance of special permit and/or license to responsible persons, firms or corporations for the operation of super-heavy equipment for the transportation of heavy commodities where the gross weight exceeds the amount allowed by law, such as heavy steel beams, steel forms, safe doors, transformers, condensers, boilers, engines, heavy gravel machines, oil field equipment and such other commodities as cannot reasonably be dismantled, each movement to be made under special permit and/or license by the State Highway Department. That due to heavy initial cost of such heavy equipment, and its limited and intermittent use, the license fee thereon should be reasonable and equitable. And any person moving such equipment without such permit shall be subjected to a severe penalty.

V.

We believe this State should adopt a uniform and reasonable traffic code, with provision for such constabulary or patrols as may be necessary to insure

its efficient operation and enforcement, of not less than 50 men.

VI.

We believe there should be embodied in our Penal Code a law making it a serious offense to travel upon the highway at night without prescribed headlights and rear lights, and likewise a serious offense to park a vehicle of any description on a highway at night without such vehicle having both headlights and rear light illuminated properly. The law should apply to every species of vehicle using the highways, including horse or animal-drawn vehicles.

VII.

We believe there should be enacted a State law to protect the traveling public from the danger of encountering unattended live stock along our highways, day or night.

VIII.

We recommend that there be passed a law requiring a driver's license.

IX.

We recommend that the Legislature enact into law a regulation that will protect the purchaser of motor fuel in the measure that they receive.

X.

We recommend that the present speed law be repealed and that there be enacted a law in its place and stead providing that each operator of a motor vehicle shall operate his vehicle at a rate of speed so that he can bring said vehicle to a complete stop in the clear distance ahead, and that any collision or accident shall be prima facie evidence of the violation of this law, and that amount of penalty shall be provided by the Legislature upon an increasing graduated scale, with a greater penalty for each successive violation.

XI.

We recommend that a law be passed requiring all operators of any motor vehicle licensed in this State to have in their possession or attached to the vehicle at all times, a receipt or duplicate receipt issued by the tax collector of the county in which the motor vehicle is registered for the current year's registration, showing the number of license plate issued such vehicle,

the motor number, kind of tires, owner's name and address, and if a commercial vehicle, the gross weight.

XII.

We recommend that the inspectors of this department be given authority to seize and store any motor vehicle, tractor, trailer or semi-trailer operating on any highway (as defined in Art. 6701, Sec. G, Revised Civil Statutes) that may be due the State Highway Department any registration fees, and such vehicles may be held by the inspector until these fees are paid; and in cases of overloaded commercial vehicles, inspectors shall have authority to reduce the load of such vehicle.

XIII.

Art. 810, Criminal Statutes, reads as follows:

"Must Have Number Plate.—Whoever shall operate or as owner permit to be operated upon a public highway any motor vehicle to which there is not attached a (license number plate or) pair of license plates issued for said vehicle shall be fined not to exceed two hundred dollars."

We recommend that the words "license number plate or" be stricken from this article, as quite often these words prevent the getting of a conviction in cases where vehicles are being operated with only one plate.

XIV.

We recommend that Arts. 833 and 834 of the Criminal Statutes be amended and so worded as to give the State Highway Commission some authority to close a highway or forbid its use as to certain traffic.

XV.

We recommend that no motor vehicle designed for the carrying of passengers shall be operated upon any public highway having any luggage, package, truck, crate, box or any other load carried thereon extending beyond the line of the hub cap on the left side of such vehicle.

XVI.

We recommend that all vehicles on highways and not in motion shall be placed as near the right-hand side of the highway as practicable and in such manner as not to obstruct public travel.

No vehicle shall be parked on the traveled or paved portion of any highway outside the city limits of any city where there is sufficient space on outside of said traveled or paved portion for parking. Fine not to exceed \$200.

XVII.

Art. 6680, Revised Civil Statutes of 1925, reads in part as follows:

"Each trailer or semi-trailer drawn or designed to be drawn by a commercial motor vehicle or tractor is subject to registration."

The wording of this article is such that a trailer drawn by any vehicle other than a commercial vehicle is not subject to registration.

We recommend that this article be amended, requiring each and every trailer to be registered, regardless of its size.

XVIII.

We would also like to recommend that no four-wheel vehicles be allowed to operate on the highways whose gross weight exceeds 22,000 pounds, and that no motor vehicle or unit be allowed to operate whose length exceeds 60 feet.

XIX.

Art. 825 of the Penal Code reads as follows:

"Operating Overloaded Vehicle.—Any owner of a commercial motor vehicle who operates or permits the same to be operated upon a public highway while loaded with a load weighing over ten per cent in excess of its registered carrying capacity shall be fined not exceeding \$200."

"Any operator or owner of a commercial vehicle," etc.

We would also recommend that semi-trailers and trailers be included in the above article, for the reason that at the present there is no provision to keep them from overloading.

XX.

We recommend that Art. 6686 of the Revised Civil Statutes, amended by the Fortieth Legislature at the Regular Session, be again amended, defining "dealer," as at present this article defines a dealer as any person, firm or corporation engaged in the business of selling automobiles, which allows any person who claims to be a dealer to operate his car on a dealer's license plate.

XXI.

Article 1435 of the Penal Code relative to the transfer of motor vehicles now requires that a transfer or bill of sale be given in duplicate by the vendor to the purchaser of any vehicle. The purchaser must record this bill of sale with the county tax collector, but this article fails to make any time limit for filing this bill of sale with the tax collector.

We would like to recommend that this article be revised, stating a time of thirty days for these transfers.

XXII.

We recommend that some law be passed giving the Highway Department some authority to audit the highway funds or collections made by the various tax collectors.

XXIII.

We recommend that the time for the payment of license fees be extended to February 1st of each year, to correspond with the time for the payment of other taxes.

The above report was adopted by the general committee by viva voce vote.

Registration and Weight Fees.

We, your committee on weights and registration fees, always remembering that the Highway Commission must have an annual maintenance fund of not less than \$10,000,000, respectfully report as follows:

First: We recommend and suggest to the Legislature that hereafter all registration, license and weight fees are to be levied and collected entirely on the basis of weight, with such charges being graduated as the weight of the vehicles registered increases.

Second: We recommend and suggest to the Legislature that there shall be a reduction from the amount of fees collected at present on all motor cars, except those which are devoted to commercial purposes, not to exceed 20 per cent.

Third: We recommend and suggest to the Legislature that in addition to the present registration, license and weight fees, they levy an excess fee, a graduated seat tax, and such additional charges as a tax on gross receipts as the Legislature may consider proper and

equitable to make against trucks, motor busses, trailers and similar vehicles to such an extent as is just and equitable, considering the manner and effect of the use of the public highways by such traffic; and further, that all proceeds from all such excess and additional fees shall accrue directly to the benefit of the State highway maintenance fund.

Fourth: We invite the attention of the Legislature to the fact that it is our belief that there is, and probably should be, a distinction between the charges levied on motor busses and trucks for hire and those that are operated by private individuals and businesses, calling their attention to the additional fact that some individuals and corporations, however, use on our highways some of the largest trucks which do most of the damage to our roads.

Fifth: We recommend and suggest to the Legislature that all funds collected as registration, license and weight fees, excepting the excess fees disposed of in paragraph three above, be divided between the State and counties as follows:

The first \$25,000, or any part thereof, to be collected is to remain with the county;

Fifty per cent of the next \$75,000 to be collected is to remain with the county;

Twenty per cent of the remainder collected by any county over and above the first \$100,000 is to remain with the county; however, in no event is any county to receive from all of such retained fees in excess of a total amount of \$150,000, the balance of all such funds so collected is to accrue to the benefit of the State highway maintenance fund.

Sixth: We recommend and suggest to the Legislature that they authorize the State Highway Department to provide proper and sufficient rules and regulations governing the gross weight, the over-all width and length and the kind and class of tires and equipment to be used on all vehicles to be operated over the public highways of this State.

The above report was adopted by the general committee by viva voce vote.

The foregoing as to the organization and work of the citizens' advisory committee has been examined by me, and I find that the proceedings and action taken are correctly reported.

D. K. MARTIN, Chairman.

"B."

December 17, 1928.

Hon. Dan Moody, Governor of Texas,
Austin.

Sir: The undersigned members of the senatorial district committee selected in accordance with your suggestion to consider and make recommendations for the judicious development of highways and roads in the State, respectfully desire to make the following statement of views upon that portion of the report with which we do not find ourselves in accord:

These differences of opinion relate (1) to the failure to recommend the declaration of a distinct State administrative policy in advancing highway development, and (2) to the proposal for a large Statewide bond issue, which we consider neither wise in policy nor effective in plan.

We would first respectfully express the regret that this representative and capable body of citizens, assembled in an advisory capacity, might not have been able to contribute their thought in seeking, over a wider range of investigation and discussion, to develop and determine more particularly those things that are fundamental in the solution of recognized difficulties, and lie at the basis of constructive progress, rather than having their efforts directed toward developing justification and support for specific proposals.

Beginning its highway activities in 1917, with a single meagre source of State revenue of license fees for motor vehicles, it was compulsory that the State adopt a plan of highway development dependent in a large part upon contributions of local funds in aid of State highway construction, with consequent local determination of location, extent and character of all such construction.

To this plan of local project initiative in highway building, with its implication of considering the Highway Department merely as an adjunct of local road programs, is due the lamentable condition that has developed the disconnected, irregularly and uneconomically constructed body of public highways we now have.

With the appearance and popular utilization throughout the entire country of gasoline as a fuel for motor vehicles, and its universal acceptance as the most equitable method of distributing cost of highway construction

and maintenance, the period of justifiable dependence upon local funds, with its attendant inequitable and unjust burden upon local property for a State improvement, was long since passed.

Every consideration of equity to the property taxpayers of the State, of efficiency in providing essential public highways, and of economy in the execution of programs of highway construction, imperatively calls for the establishment of a definite State policy in highway development. Such a policy should express it to be the purpose of the State to build and maintain all designated State highways from an independent State fund, exclusive to the State and adequate for the efficient maintenance of all highways and for the continuous advancement of new construction upon a basis reasonably equal to increasing traffic requirements—a fund derived in accord with the principle fundamental in our political economy that the traffic should provide the costs of traffic facilities.

Such a declaration of policy need not necessarily deny local participation in highway construction, where local traffic needs justify such action, but would impose upon such participation the condition that it be offered only under rules promulgated by the State Highway Department in accord with the plans of highway expansion devised and executed by the State. The most capable administrative and engineering personnel in the Highway Department loses much of its potential usefulness and value to the State when restricted to the narrow limitations of a program of waiting upon local initiative in construction, and to execution of such program, with its dependence upon all of the uncertainties of local financing.

Such a declaration of State policy, being withheld in the attitude of the committee because deemed not in accord with the plan and purpose of a proposed Statewide bond issue, expressed the failure, in our judgment, to justly appraise the obvious necessities of the hour in the efficient discharge of the State's responsibilities for the advancement of this highly important service; as also to give assurance to property taxpayers of the State's purpose to relieve them of a tax for this State improvement and distribute the costs of road development among those who use the roads.

We respectfully submit that the action of a number of States in providing for highway construction through bond

issues which impound a material portion of available road revenues for a long series of years, seriously impairing the ability of the State to respond to the continuing responsibility for highway expansion, should not be accepted as a conclusive argument for like action in Texas. Each State road program must be devised to fit the conditions that are peculiar to the State. In States of comparatively small area and relatively large population to road mileage, bond issues, the proceeds of which should be invested exclusively in high types of construction—and no Legislature should or would authorize a different policy—may be practicable; but in an agricultural State as large as Texas, with the knowledge that for long years to come there must continue to be wide diversity in the needs for traffic facilities, flexibility in the utilization of road revenues becomes an element of supreme importance to the people, permitting the conservation of all these revenues and their employment to the maximum of public service through a discretionary administrative policy that adjusts expenditures to traffic requirements, assuring a very largely increased rate of serviceable construction from life revenues, as also avoiding the unnecessary absorption of so large a part of the income in interest payments.

Revenues reasonably comparable in amount in current funds to sums made available by the less flexible method of the proposed bond issue will serve a far greater measure of public usefulness in Texas during the succeeding decade than could possibly be realized from a bond issuance, by pursuance of the common sense rule that investments in highways may not be economically made in advance of traffic needs.

The employment of the public credit through bond issues is recognized as a justifiable method of providing for various forms of public improvement, but no State should, and seldom does, ever ignore the well-recognized tenet of political economy that public debt is to be avoided where current revenues may be provided in form and amount to answer measurably the public need. The adequacy of these revenues we have demonstrated.

The important need now is not more indebtedness, but more intelligent, efficient and economical handling of available current revenues.

The time has come when a just consideration for the public well-being demands a diminution in the rate of in-

crease in the indebtedness of the subdivisions of the State, and it is assuredly a most inopportune period for the State to set a contrary example by the authorization of a tremendous State obligation, for which there is neither popular demand nor present need in the public interest. The enormous interest toll this contemplated bond obligation would impose, without possibility of compensating advantage, would add very materially to the burden public credit is now carrying.

The zealous effort to impress the conclusion that solely through a State bond issue might any recognition of the claims of counties and districts be secured, together with the refusal to permit such claims to go to the people unburdened by the proposal for a tremendous bond indebtedness, suggests a wholesome doubt of public approval of such volume of State obligation, and the apparent admission that this specious appeal to the interest of the counties and districts can alone assure it a measure of general support; and likewise would appear to express both an unwarrantable disinclination and constitutional inability for legislative recognition of such equitable claim in any form, both of which inferences we unequivocally deny.

As a judicious part of a general constructive policy for the highway development of the State, we include the desirability for such amendment of the Constitution as will fix in the organic law the right and duty of the State to establish, construct, maintain and control State highways, and to designate the preferred sources of revenue for such purposes. We believe, also, that authority might well be vested in the law-making branch of the government to provide funds and incur obligations in reasonable amount for emergencies or for unusual requirements of new construction, or changes in sources or amounts of revenue, but we hold that no such obligations should be incurred except upon specific proposals in specific instances approved by a referendum vote of taxpayers. Such a specific purpose, for example, as the return to the counties and districts of the funds paid by them toward the construction of parts of the State highway system, if it be agreed that this is the preferable way for providing for such claim.

The form of bond issue amendment to the Constitution approved by the majority of the committee is objectionable in several particulars, admitting

necessity for the action. It would seem to attempt authorization of a continuing public debt of \$225,000,000 indefinitely. Changes in the method of propulsion of motor vehicles might so reduce the income anticipated from gasoline as to require ad valorem property taxes to discharge the State's obligation. The provision that the proceeds of bonds may be used for maintenance violates the most fundamental safeguard of sound finance and fiscal statesmanship. The entire proposal rests upon the rather fanciful theory that provision can be made by an inflexible order of the Constitution for a more or less automatic program of highway development. This theory ignores the probability of changing conditions requiring modifications of processes and agencies of development; assumes unfailing ability in administration, and forgets the age-old rule of democratic experience that the Legislature, coming fresh from the people every two years, is the most dependable exponent of the needs and wishes of the people, and in the end the source of continuity in the constructive solution of problems of government.

We cordially commend your purpose to clarify this perplexing problem of judicious highway development, and have contributed with the most earnest and sincere intent to its accomplishment as our judgment of the questions involved directed; and desire to express the feeling that the discussions and conclusions of the committee will prove a distinctly helpful factor in advancing public thought toward a sane solution.

With assurances of esteem and appreciation for the courtesies extended, we are,

Very respectfully,

LEONARD TILLOTSON.

REPORT OF TAX SURVEY COMMISSION.

Austin, Texas, December 28, 1928.

To Honorable Dan Moody, Governor, and to the Forty-first Legislature:

The Fortieth Legislature passed the following concurrent resolution, which was approved by the Governor:

"Senate Concurrent Resolution No. 5, Providing for a tax survey for Texas.

"Whereas, The tax laws of Texas are a mass of indiscriminate enactments passed at various times and based on the then existing conditions and by reason of the exigencies at the time,

and same constitute a mass of patchwork and were not the result of a discriminating study of the conditions or industries of Texas or of the comparative revenue returns of the same, and do not take into consideration the changes and developments of subsequent years; and

"Whereas, There is a very general feeling that, as applied to present conditions, there exist many discriminations in the tax burdens as borne by the citizens and industries of the State, and a very general demand for the equalization of taxes in order that a reality be made of that provision in our Constitution that 'taxes shall be equal and uniform'; and

"Whereas, Owing to the great importance and magnitude of this subject, it is impractical and impossible, at a session of the Legislature, by reason of the shortness of same and the necessity of considering so many other matters of legislation, and the lack of accurate information upon which to base a fair and impartial recommendation to work out comprehensive and fair legislation, to the end that tax burdens be equalized; therefore, be it

"Resolved by the Senate of Texas, the House of Representatives concurring, That a committee of fifteen persons, to be known as the Tax Survey Committee, be created, and the duties thereof be provided as follows, to-wit:

"The President of the Senate shall appoint as members of this committee three (3) members of the Senate, and the Speaker of the House of Representatives shall appoint as members of this committee four (4) members of the House; and the Governor of Texas, as members of this committee, shall appoint eight public-spirited and capable persons who are private citizens of Texas, at least one of the persons to be appointed by the Governor to be a man who has made a special study of government and taxation and be well versed in the principles of taxation; and the remaining members to be appointed by the Governor to be selected from different vocations and from different sections of the State.

"The said Tax Survey Committee shall meet within ten days from the time its membership is completed, at a time and place to be designated by the Governor, and shall organize, by electing one of its members chairman and another secretary, and such other officers as it may deem necessary.

"The committee shall adopt such rules and regulations as necessary to carry out the provisions of this resolution.

"Said committee shall be provided with a committee room in the Capitol in Austin, and its sessions shall be open to the public, except at such times as the committee may, by a majority vote, determine to hold executive session.

"Said committee shall begin its work following the adjournment of the regular session of the Fortieth Legislature unless a special session of said Legislature shall be called within ten days after the adjournment of said regular session, in which event it shall begin its investigation following the adjournment of said special session. Said committee shall continue its sessions and investigations as may be determined by a majority vote of said committee and until its work has been completed; however, it shall conclude its investigations and make its report to the regular session of the Forty-first Legislature or to some special session of the Fortieth Legislature called by the Governor for the purpose of receiving and considering report of said committee.

"The committee herein provided shall have free access to all books and records in the several departments of the State government and of any other political subdivision of the State.

"Said committee shall have the power to subpoena witnesses to appear before it at any time or place it shall decide and furnish to it such information as such witnesses have, and to issue subpoena for records, books, papers and other documents, and to swear said witnesses; to reduce testimony to writing or typewriting; and to pay said witnesses the fees paid them in criminal cases in the District Court.

"Said committee shall also have the power to require from all persons, firms and corporations in this State such information as it may desire with reference to the properties and tax burdens being borne by same.

"Said committee shall have the power to issue such process as necessary to compel the attendance of witnesses or production of books, records or other information as may be desired by it in the proper discharge of its duties.

"The committee shall make a careful study of the subject of revenue and taxation with special reference to the problems presented in Texas and the comparative burdens borne, and shall

investigate and study the systems of raising revenue and administering same in other States. Said committee shall secure information as to Texas and as to such other States desired by it as to the taxable values of said States, the aggregate income of individuals and corporations within each of the same, the systems of taxation in same, the method of financing the educational and eleemosynary institutions and departments of government, and other information relative to the wealth and resources of each of said States and the methods employed for securing revenue for the maintenance of such institutions and the pro rata and comparative cost of educational and eleemosynary institutions, and other departments of government.

"Said committee shall secure information as to Texas and as to such other States as it may find desirable with reference to the amount of taxes now being paid by the various classes of property and industries of such States so as to be able to determine the comparative tax burden being borne in Texas and in other States by the various classes of property and industries therein.

"Said committee shall have the power and authority to employ and compensate all necessary experts, investigators, stenographers and other clerical help, and it shall be the duty of said committee to make and keep a record of its investigations and of all funds expended by it and to whom paid and the amounts thereof. It shall not be the duty, however, of said committee to keep a stenographic report of all information or investigations made by it, but it shall have the authority to keep such record as it may deem advisable.

"The report of said committee, as herein provided, shall make such recommendations as to legislation as may, in its judgment, be necessary to secure sufficient funds for a proper and economical administration of the departments of government, educational and eleemosynary institutions and as will, as nearly as possible, fairly and equitably and impartially distribute such burdens against its citizens and their property and make a reality of the constitutional provision that 'taxes shall be equal and uniform.'

"Members of said committee shall each receive as compensation the sum of \$10 per day for each day they actually serve, together with railroad fare, hotel, telegraph, telephone, post-

age and express expenses incurred in the discharge of their duties, and it shall be authorized and empowered to purchase such stationery and other supplies as may be necessary for the discharge of their duties.

"There is hereby appropriated from the contingent fund of the Fortieth Legislature the sum of \$25,000, or so much thereof as may be necessary for the purpose of defraying the compensation and expenses of the committee hereby created, including the publication of 2,000 copies of the committee report and the distribution of same to the citizens of Texas.

"Provided further, that all expenditures of such committee shall be made upon the sworn account of the persons entitled to such pay, when approved by the chairman and secretary of said committee. The secretary shall file with the State Comptroller of Public Accounts a statement showing in detail the expenditures made by such committee and the amounts and to whom all payments were made."

In pursuance of the terms of said resolution, the following named persons were appointed:

By the Governor: J. A. Kemp, A. P. Duggan, Jim Callan, John G. Willacy, E. T. Miller, J. M. West, J. M. Henderson, O. B. Colquitt.

By Honorable Barry Miller, Lieutenant Governor: Senator E. E. Witt, Senator A. J. Wirtz, Senator A. E. Wood.

By Honorable R. L. Bobbitt, Speaker of the House: Hon. J. W. Stevenson, Hon. Adrian Pool, Hon. C. E. Nicholson, Hon. Claude Teer.

In accordance with the provisions of said resolution, the committee held its first meeting at Austin on May 9, 1927, and perfected organization by electing as chairman Honorable O. B. Colquitt; as vice chairman, Senator Edgar E. Witt; and as secretary, Honorable Claude Teer. Upon motion, unanimously adopted, State Tax Commissioner F. C. Weinert was invited to sit with the committee. Specific duties as to investigation and survey were assigned to sub-committees, five in number. This report is predicated upon the findings of these sub-committees, as also upon those of Chairman Colquitt following an exhaustive examination into all matters pertaining to or affecting taxation and general information acquired by the committee as a whole. Reports of sub-committees, including

that of Chairman Colquitt, are hereto attached as exhibits.

It is but proper to state that neither the findings of sub-committees, nor those contained in this final report, are as complete as, in the judgment of the committee, they might have been, because of indifferent co-operation upon the part of local public officials to whom questionnaires were forwarded, and a suit raising the issue of the constitutionality of the resolution under the terms of which the committee was functioning. The District Court of Travis County having sustained in part the contentions of relator, and having granted a writ of injunction restraining the Comptroller from issuing to the legislative personnel of the committee warrants for services or expenses incidental thereto, the subsequent progress of the work was materially retarded. The application for injunction having attacked the constitutionality of the resolution as a whole and the cause having been appealed and is, at the time of the preparation of this report, still pending in the Supreme Court, the citizen members of the committee are in doubt as to their own legal status. However, irrespective of the result of said litigation, your committee feels that it should submit such report as under the circumstances it has been able to formulate.

After having performed very valuable service, including the preparation of a comprehensive report supported by full statistical data, which report is appended as an exhibit hereto, Chairman Colquitt, at a meeting held January 18, 1928, tendered his resignation as official head of the committee effective January 23rd. Ex-Senator John G. Willacy was selected as his successor. Honorable Claude Teer having resigned as secretary and as a member of the committee, Honorable Arthur P. Duggan was elected secretary.

It being the judgment of the committee that the work of investigation and assembling of statistics had progressed as far as under the limitations of its authority it could be extended, a special committee to be composed of Chairman Willacy and two other members was authorized to formulate, for the committee, a final report. Acting upon this authority, Chairman Willacy appointed Senator John M. Henderson and Dr. E. T. Miller, Professor of Economics, University of Texas. Prompted by the hope that a final decision by the court would uphold the constitutionality of the res-

olution as a whole and that the special committee might give proper recognition to both House and Senate by including in its personnel a member of each branch of the Legislature, they deferred for a period the work assigned to it. However, as there has been no final decision by the Supreme Court, the committee composed of members not affected by the injunction, collaborating with Honorable C. E. Nicholson, member of the House of Representatives, and Senator A. J. Wirtz, member of the Senate, each acting upon invitation but in a voluntary capacity, has prepared and hereby submits this report:

First. Equity in taxation being the objective, your committee in its examination of each separate angle of the subject, has endeavored to proceed in the light of its relation to all other angles bearing upon the same subject matter.

Second. Too much emphasis cannot be placed upon an obvious truth to the effect that public revenues, from whatever source obtained, can neither be stable nor dependable except that public expenditures be fairly constant. In an effort to point the way to a taxing system fair alike to the government, State and local, and to the people governed, inasmuch as all public revenue must be taken from the proceeds of private industry, it is of no less importance that we familiarize ourselves with the underlying causes of the tax burden than to acquaint ourselves with the tax-paying ability of sources of revenue. The authorization of public expenditures is a legislative function, and should remain so in a democracy. Likewise, limited by certain constitutional restrictions, the power to tax is a legislative function. Hence it is that in so far as concerns the levy of taxes and expenditures of money derived therefrom the legislative body is the determining factor.

Third. In the interest of candor, it is deemed proper to state that members of the Tax Survey Committee have at no time been actuated by motives contemplating an increase of the tax burden in the interest of extended public spending of the public revenues. Rather would they reduce both, firmly of the opinion that an attractive field of private industry and opportunity is a supreme essential to the welfare of the whole people. They are concerned, however, with a purpose to aid in an

effort equitably to distribute the burden and fix it where, rightfully, it belongs. This objective attained and the public service committed to judicious economy, your committee respectfully submits that with no injustice toward any form of private enterprise nor sacrifice of efficiency in the administration of government, the property tax, both State and local, can, as it should, be materially reduced and, in so far as concerns the State ad valorem tax, ultimately abolished.

Fourth. To attain an objective so much to be desired, i. e., an equitable distribution of the tax burden, a proper share of the public revenues must first be obtained from personal property, intangible values, privilege and occupational pursuits now to a considerable extent escaping taxation. After all is said, ability to pay is fundamentally the first rule in sound tax philosophy. The test of a tax is not so much that it reaches an entire population as that it applies equitably to all persons and corporations similarly situated. The wisdom of a tax is proven by its tendencies.

Fifth. Practically all American States have accepted the principle that, in certain important public matters, the less favored communities should be aided by those more fortunately situated and enjoying the fruits of superior financial and industrial advantages. Especially is this true with reference to support of the public free school system and maintenance of the public highways, these being generally accepted as matters more statewide than of purely local concern. And while it might be true that, when measured by mere statistical arrangement of figures relating to the several counties and apart from consideration of other factors, including the one of ability to pay, it may appear on the surface that the practice of collecting tax revenue from the population of one community to be expended for the benefit of populations in other communities is inequitable, analysis of all elements properly to be considered will justify such practice both as an equitable distribution of the tax burden and a proper extension of the service sought, by means of taxation, to be rendered.

It is important when considering the levy of taxes and the distribution of funds arising therefrom, that we do not lose sight of the fact that no small part of the taxable wealth that has centered in certain localities was made possible,

and is still being made possible, by the industry of other communities. And it is likewise true that the city, or town, or county wherein taxes are paid is not necessarily the same place which produces the money with which to pay the tax. No one will contend, for instance, that the tremendous wealth assembled in the larger cities owes its being to the industry, solely, of the populations of these municipalities. Nor that it has been drawn from the productive industry of the counties in which they are located. Rather is it drawn from a territory co-extensive with their zones of commercial influence and activities. Did the wealth, agricultural or otherwise, remain in the several communities wherein produced, there would be less justification in a public policy that requires one community to help another. But the fact is that produced wealth does not so remain; that it drifts towards communities possessing superior strategic commercial advantages, and that in proportion as it adds to the taxpaying ability of the one it takes from the taxpaying ability of the other. Furthermore, and apart from considerations with respect solely to the taxpaying duty of centralized wealth, there is still another aspect which, while discussing equity in taxation, should not escape attention, and that is that no small part of income actually earned in commercial and industrial centers is made possible by the rest of the State or at least by such part of it as may, in a commercial sense, be tributary and within their zones of influence.

Sixth. There are other factors to be considered, it is true; notably an utter absence of uniformity among, and as between, the several counties in assessments of property subject to an ad valorem tax. Nor is there any other angle of our taxing system more difficult to reduce to terms reasonably conforming with principles of equality. Value, whether of rural or urban property, is much a matter of human opinion. Especially is this true in the absence of fixed or fairly determinable earnings. Furthermore, a given year's net earnings may with reasonable consistency be used as a fair basis upon which to determine tax liability upon incomes for the year under examination and yet lack stability and fairness in determining property value to be taxed ad valorem.

Property value is not to be determined by any one single year's oper-

ations. Whether we would have it so or not, it yields to the fluctuations of a reasonable number of years. Were the tax duty of farm lands, for example, and in fact no small part of urban property, measured by yearly net earnings, their annual tax contribution would vary so widely as, seriously, to impair its constancy as a dependable source of revenue. And yet all such holdings should be taxed to a consistent extent if for no other reason than that, except for the protection of the sovereignty, property could not be acquired nor held; the stronger arm would prevail as against the weaker.

"Sale or market value," most generally used by assessors, is of itself insubstantial inasmuch as value of all other property cannot be fairly determined by any single transaction. And yet, in the absence of more scientific methods based on net earning ability, it is the most available means at hand to the assessor. At the same time should the Legislature in its wisdom provide a means of lessening the tax burden upon those least able to pay, keeping in mind in particular the exigencies of our farming population, it would be doing no more violence to equity than now obtains in the State's policy of requiring, in certain important public matters, that less favored communities shall be aided by those more fortunately situated.

Seventh. From a taxpaying standpoint, your committee submits that an occupation earning a given sum possesses, during the same taxable year, the same taxable value as has a physical property earning a like sum, and should be considered to have an equal taxpaying duty. Both draw their substance from the wealth arising from the industry of the whole people. Neither could prosper except for protection of government. Each should, in proportion as under protection of government it prospers, contribute toward support of that upon which its prosperity depends. Equally they share in the benefits of our public free schools, the protection of the police power and the courts, in the use of our public highways and other public improvements. In such circumstances by what peculiar interpretation of equity is it that persuades us to grant preferential consideration to the one while withholding equity from the other?

Eighth. A few chairs, a few books and a desk in an office, is no criterion

of the taxable value of an occupation. Rather it is the "going concern" value arising from contact with communities and in drawing its substance from community effort. To tax a highly lucrative occupation partakes no more of the character of taxing ability and good will than does a tax upon any other industry calling for skill and ability and which, to succeed, must first attract community confidence. Furthermore, good will, no matter how valuable, rests in the community. As it responds to individual or corporate effort it adds value to such individual or corporate enterprise; value exchangeable for cash. Having a cash value, it possesses a taxable value.

Ninth. The Ad Valorem or Property Tax.

(1) Its Financial Importance.

The property tax has always been the most important single source of State revenue. Though the use and growth of other sources of State revenue are diminishing the proportion which receipts from the property tax are of total State revenue receipts, there has been in the last twenty-five years an enormous increase in the absolute and per capita amounts received from this tax. Table No. 1 presents the facts as to the amounts and the importance of the several sources of State revenue and the changes which have taken place during the past twenty-five years. Table No. 1 and Table No. 2 are based on reports of the United States Census. The Census publications entitled "Wealth, Debt and Taxation," "Financial Statistics of States," and "Financial Statistics of Cities," contain the best analysis and most complete presentation of State and local governmental financial statistics available.

The features of Table No. 1 to which

attention may be called are, first, the increase in revenue receipts between 1912 and 1926. The increase was 472.3 per cent as compared with one of 62.5 per cent between 1902 and 1912. Second, while revenue receipts grew 472.3 per cent, receipts from taxes increased 490.1 per cent. Between 1902 and 1912 tax revenues increased 83.7 per cent. Third, the increase in the receipts from the general property tax was 320.4 per cent between 1912 and 1926, as compared with 116 per cent between 1902 and 1912; receipts from other taxes increased 834.2 per cent between 1912 and 1926, as compared with 41 per cent between 1902 and 1912.

From the foregoing comparisons and from the per capita and percentage columns of Table No. 1 it may be seen that between 1902 and 1912 the general property tax was called upon to supply by far the larger share of the increased revenue receipts. Reference to Table No. 2 shows that this increase was the result of the growth of assessed values, for the tax rate in 1912 was 8 cents lower than the rate in 1902. In 1926 the general property tax was of more absolute importance than ever before, though other taxes were relatively more important than formerly. Between 1912 and 1926 while the general property tax receipts grew 320.4 per cent, the returns from other taxes increased 834.2 per cent. These other taxes were principally the recently introduced motor vehicle, oil and gasoline taxes, and their proceeds went for the most part to such specific purposes as highways and education. The rate of the general property tax was 65 cents in 1926 as compared with 26½ cents in 1912. This was an increase in the rate of 143.7 per cent as compared with a growth in assessed values of 45 per cent.

TABLE NO. 1.

	1902	1912	1926	Per Capita	
				1902	1912
General property taxes.....	\$ 2,928,515	\$ 6,328,327	\$ 26,604,863	\$ 0.88	\$ 1.52
Special property taxes.....		541,971	2,646,353		0.13
Poll taxes.....	554,135	844,350	1,780,171	0.17	0.20
Business and non-business licenses (gross receipts, gasoline, motor vehicles, etc.).....	1,058,406	949,845	24,760,494	0.32	0.22
Special assessments and charges for outlays.....			604,923		
Fines, forfeits and escheats.....	438	10,039	11,412		
Highway privileges, rents and interest.....	1,572,476	2,286,065	6,863,562	0.47	0.55
Subventions, donations, etc.....	3,000		5,227,797		0.99
Earnings of general departments.....	1,031,224	847,601	3,606,556	0.31	0.20
Total revenue receipts.....	\$ 7,751,738	\$ 12,598,297	\$ 72,106,131	\$ 2.34	\$ 3.02
Increase.....		62.5 %	472.3 %		

Special property taxes.....	\$ 1,544,990	Corporation stock taxes.
Business and non-business licenses.....	1,801,363	Inheritance tax.
	5,320,820	Motor fuel.
	9,039,793	All other business licenses.
	10,222,310	Non-business and motor vehicle
	177,571	Hunting and fishing.
Fines, forfeits and escheats.....	9,412	Court fines.
	2,000	Commercial forfeits.
Subventions, etc.....	331,565	From U. S. for education.
	4,432,497	From U. S. for highways.
	391,015	From U. S. for agriculture.
	42,906	From U. S. for health.
	29,814	From private persons for opera

TABLE NO. 2.

	Total Valuation	Real Property	Personal Property	Per cent including Real	Per cent including Personal	General Revenue Rate
1902.....	\$ 1,017,571,732	\$ 652,602,603	\$ 364,969,129			.162
1912.....	2,532,710,050	1,650,198,381	882,511,669	152.8	147.2	.10
1926.....	3,674,414,327	2,659,892,522	1,014,521,805	61.1	14.9	.23

Note.—The Census publication does not give a division of the proceeds of the property tax according to funds. The total given by the Comptroller as received from this tax is \$24,890,415. The total given in the Census report is \$26,604,863, but included in this amount is \$1,709,001 of costs of assessment and collection, an item which is not included in the Comptroller's figure. This still leaves the Census total greater than the Comptroller's by \$5446, and it is probable that this amount is to be found in some such item as "Comptroller's Miscellaneous Collections" or "Miscellaneous Deposits to Revenue" in the general revenue fund of the Comptroller's report.

According to the report of the Comptroller for 1926 the general revenue rate of 35 cents produced \$11,313,825, which was 49.4 per cent of all general revenue receipts; the available school fund rate of 35 cents brought in \$11,313,825, which was 63.1 per cent of all of the receipts of that fund, and the pension rate of 7 cents produced \$2,262,765, which was 99.9 per cent of all of the receipts of that fund.

The following table is an analysis of the statement of the general revenue fund for the year ended August 31, 1927, as given in the report of the Comptroller for 1927.

TABLE NO. 3.

	Amount
Ad valorem taxes (i. e. property taxes).....	\$ 21,691,590.85
Poll taxes.....	1,395,277.34
General occupation taxes.....	326,793.80
Total of above taxes.....	\$ 23,413,661.99
Less transfers to Available School Fund.....	12,503,201.79
Less transfers to Pension Fund.....	2,299,125.79
Net general revenue from general taxes.....	\$ 8,611,334.41
Gross receipts taxes.....	7,495,394.84
Franchise taxes and charter fees.....	1,698,220.18
Inheritance tax.....	1,560,336.34
Total net taxes—general revenue.....	\$ 19,365,285.77
Interest, department fees, etc.....	1,539,950.08
Total income.....	\$ 20,905,238.85
Cash, August 31, 1926.....	5,396,951.42
Total.....	\$ 26,302,190.27

Texas was eleventh among the States in 1926 in the proportion of revenue receipts derived from the general property tax. The following table is based on the report of the Census:

Table No. 4.

	Per Cent.
Arizona	62.7
New Jersey	47.
Utah	45.4
Illinois	42.1
Nebraska	40.2
Washington	39.7
Kansas	37.6
Louisiana	37.5
Michigan	37.
Colorado	37.
Texas	36.9

The general property tax is used not only by the State but by the counties, incorporated places, and districts. In 1922 the State and the other taxing jurisdictions of the State collected \$94,890,000 from the general property tax. Total taxes, licenses, permits, and special assessments collected by the State and local governments in Texas in 1922 amounted \$110,046,000, of which sum the taxes on property constituted 86 per cent. The following table shows the relative importance of the general property tax among the taxes employed by the different taxing jurisdictions in 1922:

TABLE NO. 5.

	Total Tax Receipts	From General Property Tax
State.....	\$ 30,210,000	\$ 19,677,000
Counties.....	27,263,000	24,296,000
Incorporated places.....	30,921,000	29,425,000
Districts.....	21,652,000	21,492,000

The large part which the general property tax plays in the tax system of the State and its subdivisions makes the question of its operations of very great importance.

(2) The Operation of the Property Tax
—A Tax Principally on Real Property.

The property tax has always been

and still is a tax which falls mainly on real property. The following table shows the proportions which real property, intangible personal property (money, credits, bonds, and stocks other than bank stock) and other personal property are of total assessed values:

TABLE NO. 6.

Year	Real Property, Per Cent	Intangible Personal, Per Cent	Other Personal, Per Cent
1900.....	62.8	2.6	34.6
1910.....	64.2	3.2	32.6
1912.....	65.1	2.8	32.1
1915.....	65.4	2.6	32.0
1920.....	63.1	3.1	33.8
1922.....	66.1	2.2	31.7
1926.....	67.8	1.6	30.6

Real property has for some time constituted about two-thirds of assessed values. If it made up about two-thirds of the wealth of the State, its ratio of assessed values would be acceptable, but according to the United States Census real property was 53.2 per cent of the tangible wealth of the State in 1912. The Census did not include an estimate of intangible personal property, and when this omission is considered the disproportionate burden borne by real

property is evident. In 1922, according to the Census, real property was 58.8 per cent of tangible wealth. Under our tax laws, however, intangible personal property is taxable, and had this been estimated and included in 1922, the proportion of real property would have been very much less than 58.8.

The discrepancy between real property and other forms of property is shown by the following table which is based on Census statistics:

TABLE NO. 7.

Per Cent Assessed Value of Census Estimate of True Value.

	1922	1912	1900
Real property	38.3	50.0	49.2
Livestock	48.3	39.5	42.2
Manufacturing machinery	21.7	21.8	27.6
Railroads and equipment	38.7	64.9	41.1
Street railways	19.0
Telegraph and telephone	25.6

(3) The Escape of Personal Property.

Comparison between tangible property and intangible personal property cannot be made because the amount of the latter which is owned in the State is unknown, with the exception of the deposits of State and national banks. On December 31, 1925, the demand deposits held by incorporated banks in this State amounted to \$516,618,000; the amount of money reported by taxpayers as on hand or on deposit on January 1, 1926, was \$25,238,595, or 4.8 per cent of the demand deposits reported for the previous day. Time deposits should be included, but the consolidated bank statements do not separate the taxable deposits from those of counties, cities, and other governmental jurisdictions whose deposits are non-taxable. Some of the demand deposits are non-taxable because they belong to non-residents and some also may be government deposits, but, everything considered, 4.8 per cent is a fair indication of the non-rendition by taxpayers of their bank deposits. The same evasion characterizes the taxation of credits and of securities. Only \$25,238,595 of taxable credits and \$3,393,214 of taxable stocks and bonds were assessed as being owned on January 1,

1926. In 81 of the 250 counties whose assessment lists are reported in the report of the Comptroller for 1926 there was no assessment whatever of money; there were no credits assessed in 130 counties and no bonds or stocks in 217 counties. Assessments of money in Dallas county amounted to \$6,890,730, but in Harris county they were only \$53,740. Credits other than those of bankers were \$10,325,600 in Dallas county and \$18,800 in Harris county. These returns and comparisons relating to the assessment of intangible personal property are indicative of the way the law relating to the assessment of personal property is being administered and is operating.

The escape from taxation of money and credits when subject to the high general property tax rates has led some fifteen States to adopt a low rate of tax on such property. Among the States practicing this method are Kentucky, Maryland, Minnesota, Mississippi, Pennsylvania and Virginia. It has resulted in the States using it in marked increase in the number of persons assessed for money and credits, in the amount assessed, and in the revenue received. These results are illustrated in Minnesota's experience with a low rate tax, as follows:

	Number Assessed	Assessment	Revenue
1910 (old law)	6,200	\$ 13,919,806	\$ 379,754
1911 (new law)	41,437	115,481,807	346,445
1926	115,190	414,072,314	1,242,217

The Minnesota tax is one of thirty cents on the one hundred dollars and is the sole tax on money and credits. The proceeds are apportioned to the State, and to the county, the village, town or city, and the school district in which the property is assessed.

The favorable results of this method in Minnesota are to be attributed in considerable measure to the strong and efficient tax commission which that State has. In Texas, assessments of money and credits, other than those of banks or bankers, were \$69,111,526 in 1910 and \$57,303,577 in 1926,—a decrease of \$11,807,949, which is to be compared with an increase in Minnesota of over four hundred millions during the corresponding period of time.

The "equal and uniform" clause of the Texas Constitution prevents the classification of property for purposes of taxation and the use of a different rate of tax on the several classes. At the present time thirty-three States permit classification of property for purposes of taxation and in twenty-eight of these States some use is made of classification.

Mortgages were taxed in nine States in 1926 by a mortgage registry tax. As a rule the payment of the registry tax exempts the mortgage from all other taxes, and when this is the rule the tax is heavier than when it is an additional tax. It is a tax which is easily administered, is just, and is productive of revenue.

A State tax on cigarettes or on all tobacco products is the newest development in State taxation. It is at present found in ten States; namely, Alabama, Arkansas, Georgia, Iowa, Kansas, Louisiana, North Dakota, South Dakota, Tennessee, and Utah. Iowa, for example, taxes only cigarettes, and also charges cigarette dealers a license tax of from \$50 to \$100 and requires of them a \$1000 bond for their observance of the law regulating the sale and the taxation of cigarettes. States see in this tax an equitable way of relieving property of some of its tax burden.

Mercantile Pursuits.

Our tax laws provide that all property subject to the ad valorem tax shall be assessed to the owner as of the first day of January of each year. Under this provision, merchandise of every character coming into the hands of dealers between the second day of January and the thirty-first day of December of

each year, both inclusive, get by without payment of any tax whatever. Opposed to this, land and related physical property being always present, is all and always taxed; every acre, whether subdivided or not, exists, is owned and in hand every day of the year and is assessed with reference to these facts on the first day of the year. In this, as in other notable respects, our ad valorem system has proven grossly inadequate. Furthermore, it is becoming more and more obvious that, in the interest of equity and good faith, some other method should be used with respect to commercial and occupational enterprises. Uniformity in taxation is not to be obtained by acts providing merely for a fixed and invariable rate. Imposed upon ununiform percentages of true value the rate automatically becomes widely variable.

It is hardly to be assumed that, either in volume or value, stocks of goods and merchandise in Texas for the year 1927 were less than the year 1923. And yet, as shown by the reports of the State Comptroller, they were assessed:

For the year 1923.....	\$207,918,754.00
For the year 1927.....	202,904,476.00
A decrease for the year	
1927 under 1923 of...	5,014,278.00

In contrast with the above, land, exclusive of city and town property, was assessed:

For the year 1923....	\$1,375,709,129.00
For the year 1927....	1,492,285,918.00
An increase for the year	
1927 over 1923 of..	116,576,789.00

(4) Lack of Uniformity in Assessment Ratios.

There are varying percentages of assessed to true value of land and other property from county to county; also the different classes of property within the same county have different assessment ratios, and different individual owners of the same class of property within the same county are assessed at different proportions of true value. The conditions in the State in the matter of the assessment basis of property are chaotic. The tax survey committee in its questionnaire to county judges sought to ascertain the assessment practices throughout the State, and the following table is a classification of the replies received:

TABLE NO. 8.

Per Cent Assessment Ratio	Farm Land	Ranch Land	City Real Estate	Merchandise
20 and under.....	10	9	2	1
21-30.....	31	32	21	8
31-40.....	56	49	57	35
41-50.....	48	48	59	56
51-60.....	11	10	16	35
61-70.....	3	3	6	15
71-80.....	6	11	11	17
81-90.....			1	1
91-100.....	2	2	4	5
Total replies.....	167	164	177	173

The central tendency as to assessment basis of real property is between 31 and 50 per cent. There is also revealed a tendency to assess city real estate and merchandise at a higher percentage than farm and ranch lands. The comparison can best be made between the different classes of real property, because there may be considerable non-listing of merchandise which would offset the higher assessment basis.

For further comparisons of assessed value, attention is directed to the report prepared by Honorable O. B. Colquitt. On page 1, under subtitle "Lands," Mr. Colquitt states:

"The United States Census for 1920 figures the average assessment of land in Texas at 40 per cent of the real value but the best analysis which I have been able to make in the short time I have been investigating, results in the conclusion that lands in the black land belt were assessed at from 20 per cent to 25 per cent of the value; in East Texas, from 70 per cent to 80 per cent of their market value; in Middle West Texas and Panhandle counties, from 20 per cent to 25 per cent of their value; in Middle Texas and South Texas counties at about the same ratio."

On pages 21 and 22, Mr. Colquitt submits the following interesting comparisons of both assessed valuations and rates imposed:

"County Valuation and Tax Rate on Land.

"Land is assessed for taxation at average values of from 84 cents in Cul-

bertson county to \$39.36 per acre in Harris county.

"In fifty-two counties it is assessed at \$10 to \$20; in fifteen counties at \$20 to \$30 and in seven counties from \$30 to \$39.36 per acre, Harris county being the highest at \$39.36, Tarrant next highest at \$35.68 and Navarro county third highest at \$33.47.

"Taking Titus county and Wood county as average East Texas counties and my general knowledge of East Texas, I estimated that lands in that section of the State are being rendered at from 75 per cent to 80 per cent on their market value. The lands in Wood county with the tax rate of \$1.85 on the hundred is assessed at an average value of \$9.91. Titus county with the tax rate \$2.50 on the hundred, land is assessed at \$9.78, whereas it is believed that the average market value of lands in East Texas is around \$12 to \$15 per acre.

"Taking Ellis county with a tax rate of 25 cents and an average land value of \$32.78 and Dallas with tax rate of 70 cents and an average land value of \$28.02 and Collin with tax rate of 42 cents and an average land value of \$32.97, as average black land counties, I estimate that lands in the black land belt are assessed at from 20 per cent to 25 per cent of their market value.

"Taking Jones county with \$12.40 assessed valuation and a \$3.05 tax rate; Taylor with \$8.58 assessed valuation and a 75-cent tax rate, and Brown county with \$6.84 assessed valuation and a 70-cent tax rate, as representative Middle West counties, I estimate that the land is assessed at about 20 per cent to 25 per cent of their market

value. I do not understand why the rate in Jones county is so high, but I am quoting the figure given by the Comptroller's report.

"Using Hall with an assessed land valuation of \$8.43 and a tax rate of 95 cents; Childress with a valuation of \$8.06 and tax rate of 85 cents and Foard with assessed valuation of \$12, and tax rate of 65 cents, as counties representative of that section, I estimate that the valuation of taxation is from 20 per cent to 25 per cent of their market value.

"Taking DeWitt with an assessed valuation of \$14.83 per acre, 52 cents tax rate; Fayette with assessed valuation of \$15.16, tax rate of 65 cents, and Gonzales with assessed valuation of \$11.05, tax rate of 65 cents, illustrates about

the same condition in percentage of values as cited in all of the illustrations, except East Texas situation, these being typical South Texas agricultural counties.

"West Texas lands, except in counties where oil has been discovered, are being assessed on a relatively higher percentage of valuation."

On pages 244 to 249, both inclusive, under the sub-title of "County Statistics," of the statistical report compiled by Chairman Colquitt, will be found a very interesting tabulation reflecting the opinions of county judges of 177 counties as to what per cent of the reasonable market value was used for assessment purposes. Based upon opinions submitted the tabulation shows that local assessment:

	Per Cent
Of farm lands vary from 20% to 75%, the average being.....	42.5
Of ranch lands 20% to 100%, the average being.....	42.0
Of railroads 20% to 100%, the average being.....	50.53
Of public utilities 16 2-3% to 100%, the average being.....	48.5
Of merchandise 20% to 100%, the average being.....	50.4
Of manufactories 25% to 75%, the average being.....	47.1

Note.—Merchandise assessed upon such part only as may be on hand January 1st, each year.

It may be concluded from what has been presented in regard to the operation of the property tax that (1) it is a tax mainly on real property, (2) real property is undervalued for purposes of taxation, (3) other property which is taxable under existing laws is escaping taxation to a greater degree than is real estate and the extent of escape varies according to the tangible or intangible character and the simplicity or complexity of the property. The ease of concealment of money, credits, and securities, and the complex and intricate character of large scale corporate properties, such as public utilities, oil companies, large department stores, explain how, under our present tax laws and machinery of administration, there is a steep gradation in the degrees of the actual amounts or values of the different taxable properties reached for taxation.

The result of the failure of the property tax to reach all taxable property is that owners of some classes are penal-

ized while owners of other classes of property are favored in the contributions they are compelled to make towards the support of the State government. The injustice of the actual situation is obvious. There are unjust discriminations among the owners of the different classes of property and there are equally unjust discriminations among the owners within the same class of property. The modest and comparatively inexpensive home of the laborer can be, and is, more nearly valued and assessed at its real market value than can be, and is, the more costly residence of the well-to-do. This regressive operation of the tax is also true of the small and large mercantile establishments. While there is underassessment of rural property yet quantitatively such property is more fully listed than is the property in the city. The city is the home of intangible personal property, of costly household furnishings, of diamonds and precious jewels, gold and silver plate, of valuable franchises, and only a fraction of all of this property is reached.

(5) Inducement to Perjury.

The undervaluation and evasion which characterize the operation of the property tax have a more ominous significance than their effect on State revenue. They represent a widespread disregard for law and of the sanctity of legal oaths. The deception and perjury which the property tax leads to are menacing to public and private morals and to the future of good government.

As distinguished from other forms of taxation, the ad valorem tax, commonly known as the property tax, is a tax imposed upon value and must be paid irrespective of whether the subject taxed earns or not. And yet, property holdings of every character should be required to contribute some part towards support of the sovereignty. To relieve it would invite holding for speculative rather than development purposes. True, there is little equity in the administration of the property tax. Any tax law which takes no account of ability to pay is a stranger to equity. At the same time, this committee submits that taxation reduced to an exact science is a thing unknown and that, in more or less degree, lack of uniformity obtains and will continue to obtain in all forms of taxation.

In any event, in the opinion of your committee, the property tax should not too precipitately be abandoned. Too much of the wealth of the State is wrapped up in physical holdings to justify haste and certainly no part of our taxing system should be discarded until we are first convinced that, so far as concerns adequacy of the public revenues and a fairly equitable distribution of the burden, better methods are at hand of doing the same thing.

Out of the total new wealth of the State coming into being each year agricultural land acquires but a small part at best. Upon the other hand, business and occupational pursuits secure the greater part. This aspect of our industrial and commercial life cannot well be regulated; human energies are too indifferently balanced. Yet, this very fact presents all the more reason why our tax laws should be so designated that while all should pay some proper part those who profit most should pay most.

As has been shown, the general property tax has from the standpoint of equity in the distribution of the tax burden proven itself, in operation, inequitable. Taxes, in whatever manner

imposed, are ultimately paid out of income. When the property tax was first adopted the principal wealth of the State was composed of large bodies of land and herds of cattle. These constituted the main source of income. However, many other and as a general rule more profitable types of property have come into being; types in no respect less properly and legally taxable than are, or were, those originally depended upon. A large proportion of income is derived from sources other than property alone. In the formulation of a taxing system this is not to be ignored.

Texas Intangible Tax Law.

The Texas Intangible Tax Law, of itself, levies no tax whatever. It operates merely as a method of ascertaining the value of taxable entities, which already under our law are subject to an ad valorem tax, based upon the theory, as heretofore submitted, that inasmuch as the State has the power to tax, it logically possesses the right to know the value of the subject to be taxed. Its provisions might be extended to corporations, associations, and individuals engaged in business extending over many counties, rather than the one of their domicile, without violating equity or doing violence to principle.

Intangible Value.

In one form or another, almost every State of the American Union has enacted laws providing for taxing intangible wealth. As a proper subject for taxation, that of intangible value is sustained by the courts, both State and Federal. Nor is there about such sort of wealth anything vague or insubstantial. Like all other value, it may be fairly calculated, fairly assessed and equitably taxed.

A flat rate imposed upon gross receipts takes no notice of whether, out of industry or community influence, a fair return is being earned on capital value, or of ability to pay. Hence it cannot be otherwise than a stranger to equity. Under the intangible tax law as originally enacted, subjects now under our gross receipts tax law were included under the intangible tax,—a great many more, in fact,—some having succeeded in having themselves withdrawn from either. It was contended in some instances that for the

State to acquire knowledge of the real capital value of taxable subjects, involved pernicious inquiry into private business. Just why statements of financial operations rendered to the Federal government, under its income tax law, should be considered as not inconsistent, while less comprehensive statements made to the State government should be regarded as a vice, is not explainable.

In operation, the chief difference between an income tax and an intangible tax, as imposed under Texas law, is one of method. Under income tax laws, taxes are imposed upon net earnings during a given year. One may have earned nothing during the preceding year, and may "go broke" the following year, yet the tax for the year assessed must be paid. Under our intangible law, the average over a period of years is used, and upon this average the capital value is calculated, credit being allowed for taxes paid upon physical holdings.

State Tax Board.

In the judgment of your committee the State Tax Board should be in fact the State's principal tax department, its field of operations widened and the department itself put in intimate touch with all sources from which the State seeks to obtain revenue. By legislative grant this board already has the power. Adequately supported it could, and doubtless would, render both the State and the tax paying public a valuable service.

In this connection your committee directs attention to Chapter 4, Title 122, Revised Civil Statutes, 1925, under provisions of which the State Tax Board functions, and especially to Articles 7101, 7102, 7103 and 7104 thereof, which read as follows:

"Article 7101 (7410). Duties of Board.—It shall be the duty of said tax board:

"1. To make such rules and regulations as said board shall deem proper with respect to its own meetings and procedure, and to effectually carry out the purposes for which said board is constituted.

"2. To examine all books, papers and accounts and to interrogate under oath, or otherwise, any and all persons whom said board, or any member thereof, may desire to examine for the purpose of obtaining or acquiring any in-

formation that may in any way aid in securing a compliance with any tax law or revenue law of this State by any and all persons, companies, corporations or associations liable to taxation or to pay any license fee under any law of this State, which is now in force or which may hereafter be enacted.

"3. To make diligent investigation and inquiry concerning the revenue laws and systems of other States and countries, so far as the same are made known by published reports, or statistics, or can be ascertained by correspondence with officers thereof; and, with the aid of information thus or otherwise obtained, together with experience and observation of the operation of the laws of this State, to recommend to the Legislature at each Regular Session thereof, such amendments, changes or modifications of the laws of this State, and such additional laws as may to said board, or any member thereof, seem necessary or proper to remedy injustice or irregularity in taxation, and to facilitate the assessment of taxes and collection of public revenues.

"4. To report to the Legislature, at each Regular Session thereof, the whole amount of State revenues collected in this State for all purposes, and the sources thereof, the amount of such revenues which may be lost to the State through failure to make collection and the cause of such losses, a summary of the proceedings of said board since the date of its last report, and such other matters concerning the public revenues as said board, or any member thereof, may deem to be of public interest. (Id.)

"Article 7102 (7411). Visits.—Said Tax Board, or any member thereof, or the Comptroller under the direction of said board, or of the Governor, shall, at least once in each year, visit such counties of the State as said board or the Governor may direct, for the purpose of investigating into and aiding in the enforcement of all revenue laws of this State, and especially those concerning the rendition, assessment and collection of taxes. (Id.)

"Article 7103 (7412). Powers of Board.—Each member of said board shall have power to administer oaths and to subpoena and examine witnesses, and to issue subpoenas duces tecum, and shall have access to and power to order the production before such board, or any member thereof, of any and all books, documents and papers which may

be in the possession or under the control of any person, company, corporation or receiver, assignee, trustee in bankruptcy, or bailee, whenever such board, or any member thereof, may consider same necessary or proper in the prosecution of any inquiry under or in the execution of any provision of this chapter and all such process shall be served under the provisions of law governing the service of process in civil cases, in so far as applicable. (Id.)

"Article 7104 (7413). Failure to Obey Subpoena.—Any person who shall disobey any such subpoena, or subpoena duces tecum, issued by any member of said board, or any such order of said board, or who shall fail or refuse to attend as by such subpoena directed, or to testify when required to do so by any member of said board, under the provisions of this chapter, shall be deemed guilty of contempt, and may be punished therefor by said board under the provisions of laws applicable to the district courts in such cases. (Id.)"

There is at present no way of ascertaining from any State department the true value of physical properties in Texas, other than those of railways and terminal companies. Those alone may be had by reference to the records in the engineering division of the State Railroad Commission. Assessed valuations as spread upon the tax rolls differ too widely in percentages to be dependable. Utilities under the operation of the gross receipts tax law make reports of gross receipts only.

Inasmuch as railway companies, ferries, toll roads and bridge companies are the only corporations required by Texas law to submit annual reports of operations, including receipts and disbursements of operating revenue, the net income of these groups only is obtainable from State records. Under competent engineering examination and under the direction of the State Railroad Commission, the physical values of railway and terminal companies are ascertainable. Under provisions of our intangible tax law, as administered by the State Tax Commissioner, the "going concern" value of railways, bridge, ferry and toll road companies is calculated, their intangible values, if any, certified to the several county assessors for assessment.

Selecting, for purposes of illustrating the operation of our intangible tax law, the most important of the four groups, the valuation placed by the Railroad

Commission on railway and terminal companies operating in Texas aggregated (interurban railways not included), \$595,323,139.50.

Assessments by local assessors for the year	
1927 aggregated	\$151,186,497.00
Assessment of rolling stock	36,862,322.00
	<hr/>
	\$188,048,819.00

Assessment of "intangible value" as ascertained by the State Tax Commissioner	78,083,215.00
	<hr/>

Total assessed\$266,132,034.00

Ratio of Railroad Commission valuation assessed, 44.70 per cent.

Like all other taxable entities, each utility is, for the purpose of arriving at its tax duty, an individual case. Whether owned by individuals or corporations, no two properties produce alike. The amount of money invested, while a factor to be considered, is not the final and determining one. Two manufacturing plants, alike in every respect, but located in different communities, do not necessarily represent the same tax value, inasmuch as one may be earning income and the other not.

Corporations Other Than Railways.

In arriving at values upon which corporations other than railway companies are assessed, one should not be confused by the figures given under the head of "Summary of Property and Value Thereof," on page 77 of the Comptroller's report for the year 1927, which shows assessed values of certain corporations, as follows:

Value of all property of companies and corporations other than those of railways	\$ 40,896,536.00
State and national banks	67,624,945.00
City railways	13,089,236.00
Telegraph and telephone companies	25,071,481.00
Steamboats, vessels, pipe lines, etc.	43,471,556.00
	<hr/>
Total	\$190,153,754.00

Inasmuch as quite a number of corporations other than railways and those engaged in production of oil and sul-

phur, and in the sale of gasoline, are assessed upon gross receipts in lieu of a tax upon their intangibles, there should be added to the total as shown in the preceding paragraph a sum the equivalent of an assessed value, which, if taxed ad valorem, would realize, at the same State rate (67c) for the year (1927), a sum in taxes equal to that received under the gross receipts tax.

The total gross receipts tax paid by such corporations, excluding oil well owners and sulphur companies (page 97 of the Comptroller's report is referred to) was\$ 1,079,111.44

This is the equivalent of the sum which would arise from an ad valorem tax, at the rate of 67 cents, upon an assessed valuation of ... 161,061,410.00

To which, when added a valuation of \$191,328,440.06, representing the assessed valuation upon physical property of corporations, will give a total assessment value of 351,215,164.00

Inheritance Taxes.

Your committee, herein reporting, offers no specific recommendations with reference to policy in the application of inheritance taxes, but submits in this connection a report previously prepared by one of the members, which includes an extensive digest of the salient features of inheritance or succession tax laws of all the States. The information contained therein will prove a valuable guide in working out a fair solution of this important angle to our taxing system. In many States, as compared to those now obtaining in Texas, rates are higher. In others the rates are lower. Texas rates appear to strike a fair average.

The question of reciprocity between the States as to the inheritance tax on intangible personal property is one which the Legislature might well consider. The National Tax Association is making an earnest effort to secure uniformity among the States in the application of the tax to such property.

Delinquent Taxes.

The official record of delinquent taxes presents a problem calling urgently for legislative action. Just what proportion of the total of arrears can be collected is admittedly problematical. In their present state these open accounts perform no useful public service. By some effective measure they should be settled and closed.

Doubtless there are instances, many of them in fact, deserving of leniency. When right intentioned people default in their public duty, usually there are extenuating circumstances. Crop failures and other unavoidable misfortunes happen at times. Furthermore, taxes are high; much too high on those least able to pay. Upon the other hand are those amply able to pay. With such the Legislature should deal with a determined mind; to the extent if found expedient of conferring power upon some central authority.

Nor, when it comes to placing responsibility for tax delinquency extending over a long period of years is the State itself to be held altogether blameless. By the terms of our statutes enacted, presumably, for the purpose of enforcing collection, fees and charges are permitted to be pyramided to an extent that, in no small number of instances, the delinquent owner cannot afford to pay nor the State afford to foreclose. Personal property to a no inconsiderable extent escapes entirely, much of it passing out of existence or beyond the jurisdiction of the State. Real property stays and ultimately pays. True, there are no delinquencies against the major part of taxable intangible holdings nor against a majority of profitable occupations, but due to the circumstances that they are not taxed. It is not improbable that tax avoidance is a matter of no less importance than is the one of tax delinquency.

Attention is directed to pages 38 to 54, both inclusive, of the report prepared by Hon. O. B. Colquitt wherein the subject of tax delinquency is discussed in a most comprehensive manner. On page 42 Mr. Colquitt states:

"I have received numerous letters making complaint against county and district attorneys, where suits for taxes have been filed, for making a separate

suit for each tract or lot assessed in the name of the same owner. It occurs to me that the law should at least be amended in this respect so as to require all tracts of land, or town lots, in the same county assessed against the same person to be included and set out in one suit."

**Comparative Cost of Obtaining Revenue
as Between the Two Major Sources,
the Ad Valorem tax, the Gasoline tax. (Comptroller's
Statement).**

For ad valorem purposes:	
Total taxes assessed for	
1926, ending March 31,	
1927	\$27,899,184.86
Total cost of assessing	
and collecting	1,009,621.86
Cost of collecting \$100..	2.764
Total gasoline tax col-	
lected for 12 months..	19,346,501.68
Total cost of collecting	
gasoline tax	38,699.00
Total cost of collecting	
\$19,346,501.68 in ad	
valorem tax	534,737.30

Income Tax.

While the report, for the year ended June 30, 1927, of the Commissioner of Internal Revenue at Washington, gives a summary (page 79) of income tax collections from corporations and individuals by States, there is no segregation of income earned within from that earned without the several States. Hence the summary, while containing much valuable information, is by no means conclusive as to income arising solely from industrial, professional and occupational activities within any particular State. No small part of income, especially that of corporations, is actually earned from activities conducted in States other than that of their domicile. Only such portion of income as may be derived within the State is taxable for the benefit of such State.

For the year ending June 30, 1927, the total of income taxes paid by individuals, associations and corporations reporting from Texas was \$42,964,080.80

Of this total there was	
collected from corpora-	
tions	\$28,964,685.70
And from individuals....	13,999,395.10

For the year ending June 30, 1926, a published condensed Federal statement in group formation of net incomes

reported from, but not all earned in, Texas shows in the tabulation that;

Individuals reporting had	
net income aggregating	\$496,820,447.00
Corporations reporting	
had net income aggregating	209,658,194.00

Of the total number of corporations reporting (11,245) but 6890, or 61.27 per cent, had net income, while 4355, or 38.73 per cent, reported none. In all instances operating expenses, interest, uncollectible revenue, allowance for obsolescence, repairs, deterioration, etc., were deducted before net income was arrived at.

Sources and amounts of net income reported were as follows:

Business	\$115,311,440.00
Partnerships	57,541,725.00
Profits from real estate,	
etc.	33,244,817.00
Interest and investment	
income	51,698,524.00
Dividends	54,983,718.00
Wages and salaries....	219,736,635.00

For a complete history and review of income tax laws adopted by certain States, together with a summary of the provisions thereof, attention is directed to the report hereto attached, prepared, following an exhaustive examination into all matters pertaining thereto by Senator Edgar E. Witt.

Certain Recommendations.

We recommend to the Legislature and the Governor that the State budget system should be an executive and administrative process. It should be so designed that the final budget figures shall, except in emergencies, be the maximum but not necessarily the minimum of departmental and institutional expenditures.

The budget law of Maryland provides: "Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses and no such other appropriation shall be valid except in accordance with the provisions following:

"(1) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated, and called therein a supplementary appropriation bill, which supplementary appropriation bill shall provide the revenue necessary to pay

the appropriation thereby made, by a tax direct or indirect, to be laid and collected as shall be directed in said bill."

In the judgment of your committee the income tax is a just and equitable tax and as such is not to be ignored as an essential part of a comprehensive taxing system. From the standpoint of equitable taxation, those who profit most should pay most.

It is not to be denied that, should the following recommendations be adopted, a greater proportion than at present obtains of the State's revenue will be paid by commercial enterprises having their places of business in the larger cities. Wealth continuously and persistently drifts toward large centers of trade. If, under some provision of Providence, the wealth produced in the various counties remained in the communities where produced, there would be less need of seeking taxable wealth in populous centers.

That occupations coming within class (c) as hereinafter defined, due to the fact that persons so engaged render purely personal services, should be assessed under a graduated occupation tax, or under a moderate income tax. To promote the highest degree of simplicity, should an income tax be preferred, the rate imposed should be invariable.

Occupations and professions come within three classes, namely:

(a) Those in which the amount of capital invested in physical property is relatively small and the net income relatively large.

(b) Those which, from their quasi-public nature, or from the direct protection afforded by the State or the subdivision, or from the peculiar economic conditions surrounding them enjoy monopoly or other special privileges.

(c) Certain professions. These enjoy certain privileges and protection, under licenses received from the State. Many of such are beneficiaries of special training at the expense of the State. Without attempting to enumerate all the activities which, in the interest of equity toward all other taxpayers, should come under this classification, there may be mentioned attorneys at law, physicians, dentists, teachers, pharmacists, public accountants, undertakers, etc. To this class might be added, although such occupations are not of a professional character, insurance agents and adjusters, itinerant merchants, real estate agents selling on

commissions, and other like character of pursuits.

Under class (a), which group should be brought either under the provisions of our intangible tax law or under the net income tax law, might be mentioned loan companies, insurance companies, mortgage companies, bonding companies, distributors, brokerage and commission merchants, automobile finance corporations, automobile tire and accessory dealers, beverage dealers, film exchanges, bill poster and advertising concerns, real estate dealers, live stock, grain and cotton brokers, whether handling on commission or by purchase, or both, and others of like character.

Under class (b) group, which should come under the provisions of the intangible tax law, or under the provisions of a gross receipts tax law, the rate of tax equated so that revenues arising therefrom will, as nearly as may, be the equivalent in amounts as would arise from the ad valorem tax, if imposed by the State upon valuations calculated and ascertained under the provisions of our intangible tax law, may be named railroads, ferries, toll roads and bridge companies (now already under the operation of said law); all those which are now being taxed under what is commonly known as the gross receipts tax law, excepting from such group those engaged in oil and sulphur production (to which gas production should be added), and those taxed under the gasoline tax law. In addition thereto, there should be included in the group coming within class (b) as designated, pipe lines, bus lines carrying passengers and freight for hire, taxicab companies, compress companies, cement manufacturing companies, rock crushing companies and ice and ice cream companies, packing house companies and in general such enterprises as are engaged in activities, in their nature more inter-county than intra-county. With reference to the exceptions made, a tax on gas, sulphur, oil, and other mineral production is in fact a severance tax, and should be taxed as such rather than as an occupation tax. In this list of taxables gas is not now, but should be, included.

Appended hereto as a part of this report are exhibits "A," "B," "C," "D," "E," "F," "G," to which reference is made.

Exhibit A. A general and comprehensive analysis of all matters pertaining to the subject of taxation; the growth of departmental and institution-

al expenditures and other governmental operations, supported by statistics.—Compiled by Hon. O. B. Colquitt.

Exhibit B. A general review and history of the income tax together with an interesting summary of the provisions of income tax laws in operation in certain states.—Compiled by Senator Edgar E. Witt.

Exhibit C. An interesting analysis of costs of government, state, county, district and municipal; the various causes of increased cost, and a clear, critical comment upon public accounting with respect to fiscal affairs.—Compiled by Hon. C. E. Nicholson.

Exhibit D. An engaging history of taxation beginning with the Spanish-American period and extending to the present, including that of the Republic of Texas, 1836-1846, the State, the Civil War, and of Reconstruction.—Compiled by ex-Senator John M. Henderson.

Exhibit E. A comprehensive examination into inheritance or succession tax laws, together with a summary of such statutes in operation in the several states.—Compiled by Senator A. E. Wood.

Exhibit F. A short, but direct to the point, discussion of matters pertaining to public highways, supported by tabulations showing methods of financing in the several States of the Union.—Compiled by Hon. Adrian Pool.

Exhibit G. Discussing the State's revenue system following careful and intensive study of the entire problem; directs attention to the many inequalities and other incongruities, supported by tables compiled from the public records.—Compiled by Dr. E. T. Miller, Department of Economics and Sociology, University of Texas.

Note.—The consolidated report of subcommittees Nos. Three and Four, dealing with most phases of the subject of taxation and, in particular with corporations, public utilities, mercantile pursuits, intangible holdings, those assessed and those escaping, and occupation taxes, including those imposed upon gross receipts, compiled by Senator A. J. Wirtz and ex-Senator John G. Willacy, having been taken as the basis of this general report is not in the form of an exhibit attached hereto.

Respectfully submitted,
JOHN G. WILLACY, Chairman.

The Senate then retired to its Chamber.

PROVIDING FOR EXTRA COPIES OF THE HOUSE JOURNAL.

Mr. Loy offered the following simple resolution:

Resolved, That the House have 200 extra copies of today's Journal printed to carry the Governor's message.

The resolution was read second time and was adopted.

ADJOURNMENT.

Mr. Quinn moved that the House adjourn until 10 o'clock a. m. tomorrow.

Mr. Woodall moved that the House adjourn until 2 o'clock p. m. tomorrow.

The motion of Mr. Woodall prevailed, and the House, accordingly, at 4:55 o'clock p. m., adjourned until 2 o'clock p. m. tomorrow.

THIRD DAY.

(Thursday, January 10, 1929.)

The House met at 2 o'clock p. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and the following members were present:

Acker.	Fuchs.
Ackerman.	Gates.
Adkins.	Gerron.
Anderson.	Gilbert.
Avis.	Graves
Baker.	of Williamson.
Baldwin.	Graves of Erath.
Barnett.	Hardy.
Bateman.	Harding.
Beck.	Harman.
Bond.	Harper.
Bounds.	Harrison.
Bradley.	Heaton.
Brice.	Hefley.
Brooks.	Hines.
Carpenter.	Hogg.
Chastain.	Holder.
Coltrin.	Hopkins.
Conway.	Hornaday.
Cox of Navarro.	Hubbard.
Cox of Lamar.	Jenkins.
Cox of Limestone.	Johnson
Davis.	of Dimmit.
DeWolfe.	Johnson of Smith.
Dunlap.	Johnson of Scurry.
Enderby.	Jones.
Ewing.	Justiss.
Eickenroht.	Kayton.
Finn.	Keeton.
Finlay.	Keller.
Forbes.	Kemble.